

## FINAL STATEMENT OF REASONS

The California Department of Corrections (CDC) proposes to amend Section 3097 of the California Code of Regulations, Title 15 to allow the Department to gradually increase the restitution fine and direct order collections in accordance with Penal Code Section 2085.5.

These regulations allow the CDC to collect the maximum amount allowed by the Penal Code and subsequently align the CDC with the California Youth Authority (CYA), who is currently collecting restitution from its wards at a rate of 50 percent in accordance with the Welfare and Institutions Code. Both the CDC and the CYA report through the Youth and Adult Correctional Agency, therefore, by aligning the CDC's restitution collection rate with that of the CYA will not only provide consistency in government operations, it will standardize the collection rate for all victims in California.

The CDC must determine that no alternative considered would be more effective in carrying out the purpose of this action or would be as effective and less burdensome to affected private persons than the action proposed.

**Subsection 3097(a) is amended** to change the rate at which a direct order of restitution imposed by a court is collected from 20 percent to 30 percent. This change is necessary to gradually increase the amount of direct order restitution imposed by a court to the maximum amount allowed pursuant to Penal Code Section 2085.5. The exceptions are now enumerated in subsection (h) due to the reorganization of subsections (e) and (f). This section also includes that a total deduction of 33 percent shall remain in effect through June 30, 2004, at which time subsection (b) shall take effect. This is necessary in order to give an ending date to the 33 percent deduction and to give direction with regard to when and at what percentage rate the next increase will take effect with the purpose of gradually increasing to the maximum amount allowed by the Penal Code.

**New subsection 3097(b) is adopted** to provide that effective July 1, 2004, and thereafter, any direct order of restitution imposed by a court shall be deducted at a rate of 50 percent, or the balance owing, whichever is less including an administrative fee for a maximum deduction up to 55 percent. This section is necessary in order to set forth the starting date, and the rate at which the CDC is to collect the restitution fines and direct orders pursuant to Penal Code Section 2085.5.

**Existing subsection 3097(b) is renumbered to new subsection (c).**

**New subsection 3097(c) is amended** to change the rate at which a restitution fine imposed by a court is collected from 20 percent to 30 percent. This change is necessary to gradually increase the amount of restitution fines imposed by a court in order to eventually increase to the maximum amount allowed pursuant to Penal Code Section 2085.5. The exceptions are now enumerated in subsection (h) due to the reorganization of subsections (e) and (f). This section includes that the funds collected, less the administrative fee, shall be transferred to the Victim

Compensation and Government Claims Board, formerly the State Board of Control. This section also includes that a total deduction of 33 percent shall remain in effect through June 30, 2004, at which time subsection (d) shall take effect. This is necessary in order to give an ending date to the 33 percent deduction and direction with regards to when and at what percentage rate the next increase will take effect with the purpose of gradually increasing to the maximum amount allowed by the Penal Code.

**Subsection 3097 (d) is adopted** to provide that effective July 1, 2004, and thereafter, any restitution fine imposed by a court shall be deducted at a rate of 50 percent, or the balance owing, whichever is less, including an administrative fee for a maximum deduction of up to 55 percent. In addition, this section includes that the total amount deducted, less the administrative fee, shall be transferred to the Victim Compensation and Governmental Claims Board. The amount deducted, less the administrative fee, shall also be credited against the amount owing on the fine. This section is necessary in order to set forth the rate at which CDC is to collect the restitution fines and direct orders pursuant to Penal Code Section 2085.5.

**Existing subsection 3097(c) is renumbered to new subsection (e)**

**New subsection 3097(e) is amended** to remove the “/s” from the words direct order and fine and replace them with “(s)” for consistency purposes.

**Existing subsection 3097(d) is renumbered to new subsection (f)**

**New subsection 3097(f) is amended** to replace the word “on” with “from” in order to make the sentence grammatically correct. This amendment also replaces the words “in the continuous custody” with “under the jurisdiction” so that these fines and direct orders of restitution can be collected from inmates that are under the jurisdiction of the CDC, which includes when the inmate is on parole and not necessarily in the CDC’s custody.

**Existing subsection 3097(e) is renumbered to new subsection (g)**

**New subsection 3097(g) is amended** to state that fines and direct orders may be collected from inmates and parole violators housed in a Reception Center in addition to the previous mentioned facilities, which allows the CDC to collect from inmates regardless of their location pursuant to PC Section 2085.5. This section also states that fines and direct orders may also be collected from inmates in the Community Prisoner Mother and Family Foundation Programs and are no longer exempt.

**Existing subsection 3097(f) is renumbered to new subsection (h)**

**New subsection 3097(h) is amended** to provide that federal disability payments and veteran benefits are not subject to restitution deductions (see Title 38, United States Code, Section 5301). Furthermore, refunds paid to an inmate as a result of a claim for lost or damaged property, or money reimbursed to an inmate due to a failed attempt to purchase merchandise are also exempt from fines and direct orders of restitution because these funds previously had restitution deducted

from them. This amendment is necessary to provide instructions as to what funds are not to be used for collecting restitution.

**Existing subsection 3097(g) is repealed.**

**Existing subsection 3097(h) is renumbered to new subsection (i)**

**New subsection 3097(i) is amended** to reference subsections (c) and (d) in order to include the renumbered and newly adopted subsections pertaining to court imposed fine and direct order of restitution collection.

**Existing subsection 3097(i) is renumbered to new subsection (j)**

**New subsection 3097(j) is amended** to provide that funds originating from the inmate's trust account to pay for a family visit or Temporary Community Leave shall have a hold placed on the amount identified by the inmate for the upcoming visit or leave. In the event that the family visit or Temporary Community Leave does not occur, then the hold previously placed on these funds shall be removed and the funds returned to the inmates trust account with no restitution deductions being made.

#### **ASSESSMENTS, MANDATES AND FISCAL IMPACT:**

This action will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

The Department determines this action imposes no mandates on local agencies or school districts; no fiscal impact on State or local government, or Federal funding to the State, or private persons. It is also determined that this action does not affect small businesses nor have a significant adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states, because they are not affected by the internal management of State prisons; or on housing costs; and no costs or reimbursements to any local agency or school district within the meaning of Government Code Section 17561.

#### **DETERMINATION:**

The Department has determined that no alternative considered would be more effective in carrying out the purpose of this action or would be as effective and less burdensome to affected persons.

#### **PUBLIC COMMENTS:**

Public Hearing: Held January 14, 2003 from 9 a.m. to 11 a.m.

Oral comments were received as follows.

## Summaries and Responses to Public Comments:

**PUBLIC COMMENTS RECEIVED IN RESPONSE TO THE DEPARTMENT'S INITIAL NOTICE OF CHANGE TO DIRECTOR'S RULES (CLOSING FEBRUARY 14, 2003) HAVE BEEN SUMMARIZED BELOW, TOGETHER WITH THE DEPARTMENT'S RESPONSES AND ACCOMMODATIONS TO OBJECTIONS AND/OR RECOMMENDATIONS FOR CHANGING THE REGULATION AS ORIGINALLY PROPOSED:**

### ***The commenters are identified by the following:***

- Form letters are labeled as follows: **Form Letter A**, **Form Letter B**, etc...
- Individual form letters with additional statements are labeled individually as follows: **A1**, **A2**, **B1**, **B2**, etc...
- General comments are labeled as: **GC-1**, **GC-2**, **GC-3**, etc...
- Speakers from the public hearing are labeled: **PH1**, **PH2**, etc...

### **ISSUE #1: The following Commenters had general objections to the increase in restitution deductions from inmates' trust accounts:**

Most general population inmates do not have paid jobs and program in either an unpaid vocational or educational program. **(Form Letter B, GC-70)**

Inmates exist mainly off of whatever our families can send in. **(Form Letter B)**

How does CDC expect parolees to survive and to support their family when it takes away 50% of their paycheck. **(Form Letter D)**

I send money for my loved one's survival and from that CDC already takes 22%. Coupled with the \$5.00 co pay for medical visits and medical devices like support braces, ace bandages, dental visits, it seems like CDC is leading a racketeering outfit. **(Form Letter D)**

They are unfair, unjust, punitive and unrelated to the expressed purpose of compensating victims. **(Form Letter E, GC-98, GC-105, GC-140A, GC-144, GC-151)**

Victim restitution is a worthwhile project but not at the expense of inmates who are limited to making less than 25 cents per hour for their work. **(Form Letter F, Form Letter O, GC-118, GC-121)**

Being in prison is punishment for their crimes...you don't need to inflict added punishment on them. **(Form Letter F, Form Letter O, GC-118, GC-121)**

An increase from 22% to 33% then to 55% is outrageous, not to mention the increase in the administrative fee. The ridiculously low \$13.00 per month most inmates receive from their prison job leaves no room for further deductions. **(Form Letter G)**

I am very concerned and adamantly opposed to a proposal that is apparently being considered to raise restitution for inmates. Please inform me of your position. **(Form Letter G, second version)**

It is going to affect the inmates and the people who support them with money. **(Form Letter H)**

It is most disturbing to believe that CDC will raise restitution from 33% to 55% in an 18-month period. It will impact thousands of inmates throughout the prison system. **(Form Letter I)**

The impact on the morale within the inmate population is also a concern. **(Form Letter I)**

Generally opposing the regulation increase to 55%. It will be a great financial hardship for inmates. **(Form Letter J, Form Letter Q, GC-69)**

I hope you will not implement these regulations. They are unfair, unjust, punitive and unrelated to the expressed purpose of compensating victims. **(Form Letter J, Form Letter Q)**

Inmates are going hungry being fed on the same \$2.32 per day, the same amount they have been fed on for 14 years. Now CDC proposes to continue to punish by taking money sent to the inmates from their family. **(Form Letter T)**

The consequences may have a broader impact than initially realized and it is my sincere hope that this proposal is rejected as unnecessary and without foundation. **(Form Letter P, Form Letter V)**

Commenter is an inmate at CCWF and is concerned about how the increase will impact inmates across the state. States that those inmates who are indigent outnumber those who have a pay slot. **(GC-7)**

Not all inmates are stuck in a destructive life style and would love to have a PIA job to pay off their restitution, but to require or pass a regulation that increases the deductions of funds that inmates receive from family members is just unfair. **(GC-9)**

This proposal increases our restitution, but with inflation the cost of canteen items has gone up but our income/state checks have been cut back. It is illogical

to increase the amount of money flowing out and decrease the amount of money coming in. **(GC-11)**

It is already a hardship as it is. This is especially true for the mass of inmates who by and large do not come from the wealthy. **(GC-16)**

The only money inmates receive are gifts from their loved ones in order to buy their necessities which is subject to a 22% deduction. Even at this rate of deduction the burden is further maximized by the high cost of canteen items. **(GC-22)**

Inmates already pay \$5.00 for doctor visits. If restitution is increased then she will be left without anything. **(GC-24)**

An increase is unjust and oppressive to the loved ones of inmates and should not be implemented. **(GC-25)**

Does not agree with taking more money away from the inmates in California. **(GC-27, GC-56)**

Commenter is a mentor to an inmate in Solano and occasionally sends him money for canteen purchases. Feels that if the state increases the percentage it would be a turn off to other mentors and they would not want to participate in the program. **(GC-28)**

Due to the cost of living, I feel the current rate is adequate. The current rate leaves little for the inmate. **(GC-34, GC-76)**

The 20% plus the 2% is great but any more I feel would be too much. **(GC-37)**

What are you folks thinking? You act like we have this unlimited bank account. Our families who are also raising our children support us. **(GC-38)**

I don't make but 8 cents an hour and I can't get the things I need and if you raise the restitution we can't live in the prisons. **(GC-39)**

Commenter is a chaplain volunteer and believes the increase would leave the women at CCWF and VSP with practically no income and place an unnecessary burden on them. **(GC-40)**

Since you want to raise the restitution, are you going to lower the price on canteen? **(GC-41)**

I don't think it is fair for more than 22% to be taken out of incoming money. Some people do not have a lot of financial support from their families so when

they do get a little money; it is all getting snatched because of restitution. **(GC-44, GC-51)**

Is writing on behalf of inmates at CCWF and asking that CDC take into consideration that many of the inmates have little funds or just their pay grades to purchase monthly necessities. The majority of inmates are lifers or long termers with little or no support from friends or relatives. At the current rate of 22% restitution is still being paid and they can still support themselves. **(GC-45)**

The amount you take out now is considered fair because that is the way it has been. But to raise it would be unfair. **(GC-48)**

Paying restitution can force an inmate to decide whether to purchase hygiene items or write to their family. Both of these are crucial to a person's self-esteem that in turn is crucial to their rehabilitation. Please do not raise it any higher. **(GC-53)**

It is hard enough trying each month to make it in this prison. The money I get from family has to last until I get more, and increasing restitution will only make it worse. **(GC-54)**

I do not understand how you propose to increase restitution from 33% to 55% in a year. As an inmate doing 85% of his time, and not even doing good time, what would be the point in going to do your job. I am totally against this ruling. **(GC-57)**

If an inmate gets \$20.00 then after the 55% deduction they would get \$9.00. If he goes to a dental or doctor visit then that is another \$5.00 gone leaving the inmate with only \$4.00 to spend on himself. This is not right. If you want 55% then take it exclusively from Prison Industry Pay wages and not from our trust account deposits. **(GC-61)**

No consideration has been afforded to those of us whom this will adversely affect or the consequences of this action in general. Those of us presently in the system have gotten used to surviving on the limited budget we are afforded and to be hit with such a major increase would surely cause undue hardships among us. The newly proposed rate should be geared towards those newly committed inmates after it is implemented, as it would be no surprise to them. **(GC-62)**

This increase would create a hardship for me in the following ways: 1) I am unemployed so the only income I have is from my family, 2) they can barely send me enough to cover my hygiene needs, 3) I am serving life without parole so if my appeal fails I will have more than enough time to pay my restitution at the current rate of 22% since I am only 24 years old. **(GC-63)**

The proposed 55% increase is astronomical and insane. To think that over half of the money we receive will be taken from us is not right. **(GC-64)**

I am an inmate locked up in SHU 23 hours a day. I have no job so the only means of support I get is from family members who struggle to pay their own bills. **(GC-66)**

How much money will you be collecting from me? Zero! You guys are shooting yourself in the foot on this one. This is a bad idea for everyone involved. **(GC-68)**

I oppose the increase because most general population inmates at CCWF do not have a paid work position. **(GC-72)**

The increase will not affect me since I have paid off my restitution at 22% but feel it would cause undue hardships on many inmate families. **(GC-74)**

Prison inmates are already being punished by prison terms. **(GC-85)**

As you know, inmates already make extremely little in their jobs and are charged very high prices for basic hygiene items. If you plan to increase the restitution percentage then at least lower the price of the canteen items. **(GC-94)**

I am very concerned about the new law coming into effect. The state will be taking 50% of an inmate's incoming money. I feel this is unfair to the people who are sending the money. **(GC-96)**

I oppose this regulation on the basis that I am an inmate in CDC custody and will be adversely impacted by the proposed amendment. My family is also encouraged to present individual objections. They do not intend their donations to pay the fines and restitutions imposed upon me. **(GC-101)**

I object to any increase in restitution withholding for inmates. They cannot afford it and neither can their families. Why take from the people who have the least? **(GC-102)**

Commenter is a chaplain with 25 years experience working with inmates. Commenter objects to the increase stating it would be a great hardship. Many inmates depend almost entirely on the wage they earn from the prison job. Agrees that the restitution order is deserved for the crimes they committed but to increase the percentage would be unfair. Supporting themselves can develop whatever dignity inmates have in prison. When most of that is taken away it can lead to other issues that will not be healthy emotionally. **(GC-107)**

This is a punitive measure that shocks every thoughtful citizen. **(GC-108)**

I do not approve of the raise in restitution. **(GC-109)**



This is deliberate and malicious and will create an already infelicitous standard of application. **(GC-113)**

I am writing on behalf of the California Catholic Conference to oppose the implementation of proposed regulations raising restitution fees. **(GC-114)**

I believe the inmates should pay restitution and it should not come out of the money sent to them by their loved ones. This money allows the inmate to buy items at the canteen. **(GC-122)**

I am strongly against the raising of the restitution fees that are collected from all inmates. **(GC-123)**

Under the change in the restitution rules now being proposed, a large number of inmates that are paying restitution now will no longer pay restitution at all. As you are probably aware, most jobs in the prison no longer pay wages and the majority of inmates receive no money from outside sources. There is one program left that allows inmates the ability to pay their restitution fines, the Hobby Program. When the restitution goes up to 33% most inmates with restitution will no longer be able to participate in the Hobby Program, effectively ending their ability to pay any of their owed restitution. **(GC-129)**

I object to this restitution being raised. If it does go through, my restitution will never get paid because I will no longer have money sent in. **(GC-130)**

The purpose of this letter is to voice my opposition to the proposed regulations that will increase the percentage of the restitution fee. The proposed regulation will pass because the general public does not care and those being taken care of within the system will benefit. **(GC-131)**

Fundamentally, this proposition is flawed. First I would like to inform you that I do pay restitution and that at the present rate of 22% I still consider even this a steep rate. I have no problem paying but feel that my family or loved ones should not have to bear that burden of which they have plenty. I owe \$4,800, which by the time I am released will be fully paid. I cannot see paying a higher rate, as it is I already feel the pinch when I go to canteen or buy a book. **(GC-137)**

Please keep restitution fees at the current rate. It is already a hardship as it is. To more than double this hardship seems to me to be unusually cruel to inmates and their loved ones. Especially in view of the fact that the vast majority of inmates do not come from the wealthy but low-income families. **(GC-138)**

I personally think that it is a bad idea for a few reasons. The majority of inmates who owe restitution were financially challenged in society thus creating the need

for so called free counsel, which leads to most persons owing restitution. Also, due to the lengthy terms being given, many have little or no family support at all so taking 33% or 55% will place a large number of inmates in an impoverished condition while serving their sentence. **(GC-139)**

Families send money to the inmates to provide basic and necessary items not provided. Why should you consider adding more punishment to the prison inmates already doing time? **(GC-140A)**

The California Women's Law Center is a statewide policy, advocacy and legal services support center. The center focuses on disarming the traditional policies that have prevented women from securing safety, wellness, and economic security. The center believes the two program most impacted by the increase will be the Community Prisoner Mother and Family Foundation Programs. Would like for CDC to amend the regulation to leave the current exemption intact so that no restitution deduction would be taken from the inmates participating in these two programs. **(GC-142)**

The proposed increase will raise the restitution amount from the current 22% to an interim 33% as of 2003 and later to 55% in 2004. The servicing amount, as I understand it will rise from the current 2% to 3% and then to 5%. According to my calculations, this represents a whopping 50% increase in 2003 and an outrageous 150% increase overall by 2004. It is simply unbelievable to comprehend that your office has even considered a proposal of this proportion. No other population group in this state would ever submit to an increase of this size for any reason. **(GC-145)**

Please leave the restitution percentage at 22%. It is appropriate there since inmates need to also have money for themselves and their families. Their ability to earn money is severely limited and 22% is a substantial percentage already. **(GC-146)**

Your new proposal of the amount to be taken out of our money is outrageous. The rate is bad enough now; any more would be simply be unaffordable. **(GC-152)**

Please rethink the proposed increase in restitution percentages of inmates currently housed in prisons. As it stands, 22% of all inmate funds are captured for this purpose. The current 22% ration may not be just but it is fairly reasonable. **(GC-155)**

Raising the percentage of funds taken out for restitution is a very inhumane proposal. It will increase anger and hopelessness among not only inmates but also their friends and families **(GC-155)**

This policy of wiping out balances is more than unfair, and stands to only be worse if the changes instituted take effect. I urge no changes as proposed in the interest of justice and fairness. **(GC-157)**

The inmate already has restrictions on what they are allowed to own. This interferes with what family and friends can provide. **(GC-159)**

I strongly object to the proposed changes dealing with restitution that would raise the rate from 22% to 55%. The court imposed a restitution fine of \$200 in 1999 on my husband. While serving his sentence at Sacramento Prison he paid it off. These accounts can get mixed up because Corcoran told him he had to pay it all over again. **(GC-160)**

I totally disapprove of the increase we have to pay regardless of how much you take at a time, but we are only allowed to shop once a month, and if all our monies are taken once every month, that is just not politically correct. **(GC-161)**

As a first term-er I have tried to abide by the rules set for us. I do not wish to return. I have done an exemplary program and have remained disciplinary free. I have relied solely on my paycheck from PIA fabric. It would create a great handicap for me to exist off of 45% of my pay should the proposal of 55% come into effect in the future. I am speaking primarily for the majority of inmates who work for lesser pay slots or rely on contributions from family members alone. I ask that you maintain the 22% and for any increases to be denied. **(GC-587)**

I have been in Chowchilla prison for a year now and I have been earning my own money for canteen in PIA sewing, which starts at 30 cents an hour. The pay slots start at 8 cents an hour and go up to 95 cents an hour in various jobs in prison. The Joint Venture Program makes minimum wage. I don't have any write ups or any 115s. My job is very important to me to take care of myself. It would be a hardship for me to have the restitution raised to 33% then to 55%. Not all inmates have pay slots and they rely on their family and friends to send them money. I wanted to support myself in prison, so now I am employed in PIA sewing and I do not have to ask my family and friends for money. We can't receive a lot of items in our box, so we have to buy them from "Special Purchase" or canteen. I ask you please to deny the restitution increase of 33% that will eventually be raised to 55% and stay at the present restitution of 22%. **(GC-588)**

I think this is cruel. Please reconsider this situation. We are women who have made mistakes with our lives and are being punished for them already, but it is like we are being punished more. I pray and hope that you will find it in your hearts to let us keep the little bit of money we do receive. **(GC-589)**

CDC is currently taking 22% out of all incoming money that is sent to us and 22% out of our total income that we work for. I feel that 22% is already sufficient amount that we pay to cover our restitution balance. Paying any more than that

is totally unacceptable and cruel considering that our highest pay slot is only a mere 30 cents an hour. **(GC-590)**

We would propose not only defeating this regulation, but at the very least, putting off the mandate to implementing this new regulation until you figure out alternatives. **(PH-2)**

You are proposing doubling the rate of money taken from an inmate which means that if I usually send \$50 into my loved one every couple of months, I will now have to send in double that. **(PH-4)**

To send him a birthday gift of \$20, right now I have to send him \$24. With the proposed changes I am going to have to send him \$45 or \$50 for him to get \$20. I do not want to pay two or three times the value. **(PH-8)**

I would just like to register my opposition as everyone here that has spoken today has done regarding restitution increase. I would also like to mainly correspond with hundreds, possibly thousands of inmates across the state who have expressed a lot of concern about this proposal. **(PH-9)**

I have all the sympathy and empathy in the world for victims but to create more victims is not the solution. Think we can find other ways to support this group and not create more victims in the process. **(PH-10)**

#### **ACCOMMODATION: None**

RESPONSE: The Department recognizes the fact that certain commenters have strong feelings about the increase in restitution deductions from inmates' trust accounts. Currently 96% of inmates have a restitution obligation as part of their sentence. At the current deduction rate of 22%, only 15% of inmates parole with their restitution fully paid and [although the Department has the authority to collect restitution from parolees, they have no mechanism to deduct any from their wages earned while on parole. Therefore, the Department has determined, that the increase is necessary in order to more effectively comply with its legal obligation to collect all restitution owed by offenders under its jurisdiction.](#)

**ISSUE #2: The following Commenters feel that money earmarked for the specific purpose of canteen use or to purchase hobby supplies should be exempt from restitution.**

Just as Family Visiting funds can be earmarked specially for that purpose, so could funds for canteen/store purchase. **(Form Letter A, Form Letter S, Form Letter T, GC-126, GC-149)**

Subsection 3097 (a) should be revised to exclude "trust account deposits" from being subjected to restitution collection. **(Form Letter D)**

Money orders, cashier checks, and personal checks are considered gifts. The Penal Code clearly states that restitution comes from earned wages. **(GC-104)**

If hobby earnings are not considered exempt from the increase under the newly proposed rules, a large amount of money owed to restitution fines will go unpaid and as many of us will parole to a retirement home, it will never be paid. I believe the section of the Penal Code concerning restitution and people's ability to pay would make it possible to exempt hobby earnings from the increase. **(GC-129)**

I am aghast in that monies deposited by family or friends from outside are subject to being swiped for restitution: those monies are intended for the inmates use and have been given for that reason by others, not given to pay restitution. **(GC-157)**

Since most inmates depend on family's financial support in order to obtain food and clothes that are available in the institution store, money sent in for these items should be exempt. **(PH-3)**

**ACCOMMODATION: None**

**RESPONSE:** The Department contends Penal Code Section 2085.5, subsection (a) and (b) gives the Department authority to deduct restitution from inmate's wages and trust account deposits. Money deposited into the inmate's trust account for canteen use or any other personal use is legally subjected to restitution deductions. However, money earmarked for a family visit is exempt from restitution. Family visit money is used to pay for the expenses of that family who is visiting. Any money remaining after the family visit is completed has a hold placed on it and is earmarked for a future family visit.

**ISSUE #3: The following Commenters believe that increasing restitution deductions will adversely impact the Department's canteen revenue.**

When restitution money is removed upon first receipt, the prisons lose money that would otherwise be spent on canteen, thus creating less revenue for each prison. **(Form Letter A, Form Letter S, Form Letter T, GC-61, GC-104, GC-126, GC-149)**

The inherent objective of the restitution increase is to actually raise money for the Victim's Fund and will most likely end up "shooting oneself in the foot". With fewer people sending assistance and for CDC to take more money to the point of destroying the objective, the reasonable conclusion is that less money will be collected and the whole purpose will be defeated. **(Form Letter D)**

CDC is trying to raise something that is detrimental to their budget. Raising the percentage of our restitution will mean less people will be participating in canteen. **(Form Letter K)**

If not mistaken, canteen is a big part of CDC's budget so if we stop participating in canteen, where will CDC get money for Inmate Welfare Fund and other things canteen money gets used for? **(Form Letter K)**

Far more inmates will require the "Indigent Package" thereby costing CDC more money. **(Form Letter D, GC-39, GC67, GC-70, GC-88)**

The increase in restitution will create a decrease in CDC's revenue for it will be obligated to provide for all the essential necessities of every inmate under its custody. **(Form Letter V)**

More people will be indigent because they will not want to work for \$100 a month or receive \$100 from home only to be able to spend \$45 at the canteen. **(GC-6)**

The Inmate Welfare Fund, which supports the canteen, will have a deficit because fewer inmates will purchase items. **(GC-6, GC-61)**

I believe if the restitution was raised, fewer and fewer people will send in money that means that CDC will pay more in indigent packages. With the increase of indigent inmates, the state will receive fewer co-payments for medical and dental needs. It may cost CDC more to increase restitution. **(GC-8, GC-67, GC-88)**

CDC will in fact have to put out more money to support myself and other inmates. This proposal looks good on the outside but will in fact only burden CDC. **(GC-11)**

Let me share with you an inside, inmate perspective (and this will spread like wild fire throughout the state: the deductions will decrease if this proposal is passed. Prisoners will have their money from family and friends placed into the account of those inmates who do not owe restitution, and there are plenty of lifers around who do not owe and would be happy to get paid 22% themselves to make a canteen purchase for those inmates who owe fines. I can promise you that if you raise the amount of 33% or 55% the victims' fund will lose money. Inmates will have their money put on others trust accounts that owe nothing. **(GC-13, GC-18, GC-37, GC-61, GC-67, GC-68)**

This increase will bite CDC and the Crime Victims Restitution fund in the back, as less money will come in for inmates. Canteen sales and the interest CDC receives off the inmate's trust accounts will decrease. More inmates will go on indigent status. As a result, I will have to spend less or stop going to the canteen altogether. Furthermore, the various children's organizations that profit from food sales will see a decrease. **(GC-59, GC-61)**

Increasing restitution keeps inmates in poverty, thereby putting more expense back onto CDC. **(GC-60)**

No deposits means no deductions of any percent from anyone, means no money paid to Victims Fund. **(GC-61, GC-68)**

I request that no changes be made because it will cost the state more money and big losses in medical, dental. Believe me that the increase will create undue cost and problems. **(GC-67)**

I believe there will be a substantial reduction in revenue to CDC through canteen operations that will only minimally be offset by the 10% CDC collects for administrative costs. Further, the proposed action will have a noticeable impact on the cost of housing inmates. The majority of indigent inmates will increase with CDC having to pick up the cost of providing hygiene items. **(GC-101)**

If this rate hike takes place, my family will not send me more money than they do now so as to make up the difference. I would not ask them to do so. Thus my monthly draw would shrink dramatically to about \$22.00. This will not only affect me but the state as well. **(GC-137)**

The more you raise the restitution costs the more likely CDC is going to end up having to pay for a lot more as far as inmate product that they would normally give out. **(PH-10)**

I have son in prison. On behalf of myself and my wife, who periodically send money, I think this should be reconsidered. People will not be able to send the amount of money into the prisons if the regulation goes into effect. This will directly affect the victims' fund and it will lose money. **(PH-12)**

**ACCOMMODATION: None**

**RESPONSE:** The Department considered this possibility during the initial discussions of drafting the revised regulation language and consulted California Youth Authority (CYA) for their experience. In 1998 CYA went from voluntary restitution deductions to 50% mandatory deductions. The result was a negative impact on CYA's canteen sales for the first six months, however, it quickly returned to the same level prior to the implementation and has been operating at that level ever since. Based on CYA's experience, the Department expects a similar occurrence with their canteen revenue after implementing the 33% deduction and again after implementing the 55% deduction.

**ISSUE #4: The following Commenters oppose increasing restitution because it will create a “black market” and increase violence inside the prisons:**

Taking restitution at a high percentage could lead to more violence and black market dealings inside the prisons as exemplified by CDC’s tobacco ban. **(Form Letter A, Form Letter S, Form Letter T, GC-104, GC-126, GC-149)**

As fewer and fewer prisoners are able to afford to go to canteen, the black market trade value of food and toiletry items will only increase. **(Form Letter A, Form Letter S, Form Letter T, GC-126, GC-149)**

The increase in percentage collection will increase the demand for self-medicating substances on the black market. **(Form Letter C, GC-99)**

This new policy will further the disruption and violence within CDC as a result of this new change. **(Form Letter I)**

CDC should consider that forcing inmates to “shop” with less money at canteen encourages violence and a black market for items such as tobacco, coffee, and candy. **(Form Letter N)**

Should CDC adopt these new rules on restitution, the safety and security at the prisons will be in jeopardy. Black market will develop for bare necessities because the families will no longer be able to afford to send the amount of money to cover the bare necessities. **(Form Letter Q)**

I also feel it will increase the black market issues inside these walls which will only cause more violence and chaos. **(GC-14)**

California is in great debt, \$35 billion at least estimated. Raising restitution will not fix anything quick and in the long run will create a have and have not society that will lead to great violence in the institution and trouble across the State. **(GC-19)**

The only people who will have money inside will be those who are trafficking in drugs such as the recent CDC staff employee who was bringing drugs into Solano. **(GC-30)**

We tolerate the 22% now but any more than that would push our “toleration level” and force us to “circumvent” the entire 3097 section by utilizing other avenues of getting money and the weaker inmates will also suffer extortion, theft, and beatings for their canteen items. **(GC-61)**

This increase would lead to the propensity for violent acts among the prison population that would then subject those involved to even more prison time. I



cannot help but think that the ultimate goal of this action is to set us up for failure by forcing us to resort to those illegal activities that caused us to be in this situation to begin with. **(GC-62)**

Limiting prisoners' spending money can only foster more bitterness toward the system and encourage stealing from each other or from prison storage units. **(GC-86)**

I think you are going to have some lifers harming staff to start proving a point to CDC. How much more are you going to do before folks break? Give us a break and leave the money alone. **(GC-91)**

There already exists a lot of larceny among the inmate population. I am sure that this will only increase thievery and corruption within the prison walls. **(GC-139)**

The more you take away the more you are going to see violence in the institution. **(PH-10)**

**ACCOMMODATION: None**

**RESPONSE:** The Department has no evidence to suggest that the amount of money on an inmate's trust account is related to the amount of violence or a "black market" existence within the institutions.

**ISSUE #5: The following Commenters contend that the increase in restitution will create a financial hardship for both the inmate and their family:**

Unacceptable that money from family and friends be used to offset restitution fines and orders. Families are already suffering financially by having to be sole providers. **(Form Letter A, Form Letter S, Form Letter T, GC-126, GC-149)**

Any money taken for restitution should be taken from prisoners' income, not their family.  
**(Form Letter A, Form Letter S, Form Letter T, GC-70, GC-104, GC-126, GC-149)**

Our family member did not commit any crime and should not be made to pay our restitution. **(Form Letter B, GC-58, GC-61, GC-74)**

Families will be discouraged to send money knowing that half of it will reach their loved one. **(Form Letter C, GC-93, GC-99)**

The inmate is the one who owes the fines, not the family. **(Form Letter D)**

For family members and friends who could still afford to assist the incarcerated person, it will now cost them far more to accomplish the same goal. **(Form Letter D)**

A higher rate would not only place a hardship on the inmates, especially those who do not have a prison job, but it would also create a hardship for the families of all inmates, in particular those who are on fixed incomes. **(Form Letter M)**

Restitution is imposed by the courts on prisoners and not on their families who may already be suffering a loss of income. **(Form Letter N)**

The proposal is punitive towards families and friends of prisoners. **(Form Letter P, GC-78)**

Court ordered restitution is a consequence of an inmate's actions as well as a debt, but it should not be used in an oppressive manner towards the inmates' family. **(Form Letter P, Form Letter V)**

Families and friends must make sacrifices in order to be able to assist our incarcerated loved ones with some financial support. **(Form Letter V, GC-70)**

CDC plans to extort more than half of any money we may be able to set aside to assist our incarcerated loved ones could deter many of us from sending any money at all. **(Form Letter V)**

This action is absurd because my family works hard for their money and they try to take care of my hygiene needs along with other family members in the household. I don't feel that they should be made to pay my restitution since they did not commit the crime. My family pays taxes and it is not fair to them to pay my restitution. I receive \$20 a month and out of that \$20 I pay restitution. If you were to raise the restitution to 33% I would only have \$13.40 not counting co-payments. I put in for medical issues and I am not eligible for indigent. I ask that this proposed action be put aside and disapproved. **(B-249)**

Commenter is an inmate at CCWF in the SAP Program; consequently she is not able to get a pay slot. All her financial support comes from her family. The proposed increase will add an extra burden on her family. **(GC-3)**

Inmate salaries and money from families are very small and with the proposed income, it puts unfair demands on the inmates and their family. **(GC-4)**

Such a huge deduction will mean prisoners will either no longer be able to purchase basic necessities from the canteen or inmate's families will have to double the amount they contribute toward their loved one's account so that their loved ones may purchase the same necessities. **(Form letter J)**

Inmates who are required to pay restitution at Pleasant Valley State Prison will be affected by this proposal. Although the restitution law was put into place to support the victims of crime, this proposal will have an adverse effect on all inmates within this facility, along with family members who are trying to support their loved ones. **(GC-9)**

My parents know first hand my allergies and the result of suffering I go through when forced to use certain products and supplement my income to compensate for what CDC will not provide. An increase in restitution punishes them, not me. **(GC-11)**

I feel it is wrong because it not only puts a financial burden on the inmate, but on the family. As an inmate, I am dependent on those funds for toiletries and other things. **(GC-14)**

It seems like they are forcing our families and loved ones to pay for our punishment. It is not our choice that we are here and helpless. **(GC-15)**

Inmates are now paying 22% tax for restitution and that is plenty. The proposed increase is punishing not only the inmate but their family and friends as well. **(GC-16)**

The proposed 55% rate places an undue burden on our loved ones who, due to their unconditional compassion for us, want us to have the basic necessities as well as certain gifts. **(GC-25)**

It is the friends and relatives of inmates who will be adversely affected by this proposed change. Bottom line, those who send inmates money are in fact paying the restitution. This is guilt by association. **(GC-29)**

Why is CDC so intent on punishing and persecuting the families and friends of inmates? We are downtrodden at every turn by those who should be attempting to make corrections in California. I am astounded by the assault on the family and friends of inmates and find those who are pushing this through to be beneath contempt. We already have to spend \$100 to give a loved one \$78 and now you are going to decrease it to \$45. Those of us who have done no crime will cost us \$400 to send enough money for our loved one to buy a TV from the catalog. In addition, we must pay for hobby and education programs that might actually help with the recidivism in the state. **(GC-30)**

With the high cost of calls and now your new way to punish families of inmates, this is another way you have found to deteriorate the inmate-family relationship. **(GC-31)**

Raising fines hurts prison families who are already struggling to make ends meet. By raising the fine you are asking wives and parents to choose between helping

their incarcerated inmate and the ability to take care of children, purchase medicine, etc. There is no extra money for these families and there is no need to add more restitution. **(GC-33)**

I am currently incarcerated at CCWF in the SAP program. While attending this program we are not allowed to have a position with a pay slot. This means all my financial support comes from my family. This is an added burden to them. It would be much easier if the fees were to stay at 22%. **(GC-42)**

I feel this is an awful burden on the families of the inmates. I am on a fixed income and I like to send my son some money to buy the necessities. With the increase proposed this becomes a burden on me. **(GC-46)**

An increase in the percentage of restitution collected from inmates will place the burden of restitution primarily on the family of the inmate. **(GC-65)**

My only source of income comes from relatives and they are not wealthy and can barely afford to help me out let alone pay for my crime. I believe that by raising the fee for restitution it would affect persons in the community and public because it is their hard earned money being taken. **(GC-67)**

I believe that your proposal will create serious hardships for the families and friends of inmates. **(GC-70)**

CDC does not provide any assessment of the financial impact of inmates' families or the private agencies providing support for inmates and their families. **(GC-73)**

The proposed changes will put an undue and unjustified burden on the families of inmates who choose to deposit funds into an inmate trust account. **(GC-73, GC-78)**

The increase would impose an onerous and unjust burden on inmates, parolees, and their families. **(GC-77)**

This policy change will have an extreme and significant effect upon the inmate, their family and their friends. **(GC-79)**

This will be a hardship and seems unfair to deduct money from people who had nothing to do with the crime to pay restitution. This seems to be not only immoral but also illegal. **(GC-83)**

In plain words, you are not taking it from the prisoners alone. In many ways you are taking it from us, the hard working families and loved ones who are suffering on the outside. Why is it that we are always the ones who have to suffer financially? You have no idea how hard it is on innocent loved ones. **(GC-89)**

The majority of families have to sacrifice their own necessities in order for their loved one to be able to buy from the canteen or have enough money to pay for a sick call. **(GC-90)**

The majority of families and friends of inmates are not wealthy and will scrape up what little money they can to send them help. **(GC-93)**

Most of our families send us money that they have earned through their hard labor. It is not their responsibility to pay our restitution. I think it is an injustice that they have to pay the 22%, but to raise it to 33% is a horrible injustice to our families. **(GC-8, GC-88)**

An inmate's family or loved one may already have a hard time taking care of this person. **(GC-96)**

Please do not raise restitution increase since most inmates already have so little. The current 22% is already a great hardship not just to inmates but to our families as well. **(GC-100)**

The 22% that is already deducted from money sent to inmates poses an unnecessary financial burden on the families of inmates. To increase the amount to 33% could very well prevent families from sending in funds altogether. **(GC-104)**

We are parents of an inmate under CDC. We have been told that a change is proposed to raise the restitution to 55% in 2003 to repay court-levied fines. We strongly oppose this proposal, which appears to not only punish the inmate who earns minimal monies but also the families who may contribute money to address inmate needs. We feel this wrongly imposes hardship on families. **(GC-115)**

This would drain the pocket books of many households, including mine. Many of these inmates have left their wife with children to fend for themselves. Who are you really going to punish with the raising of these monies. The poor will get poorer and the families will be the ones to suffer. **(GC-123)**

I believe to amend the policy jumping as high as 55% is punishing not only the inmates but their family and friends as well. **(GC-138)**

I contend that court ordered restitution, while intended to be paid by the inmate as part of his penance for a crime, will most certainly be carried more and more on the backs of family members who subsidize their loved ones while in prison. If this proposal is made law those women who have lost the income of their spouse or significant other through a prison term, who themselves are innocent of any crime, valiantly try to sustain themselves and their children on one income.

These are the people who will be saddled with the consequences of this outrageous increase. **(GC-145)**

I am writing to protest the proposed raising of deductions for the restitution fund. More money deducted from inmates' small salaries or a hard-earned money from families is exploitative and frankly sneaky. We should not live in a society that deprives inmates, already being punished, from meager necessities of living. We should not be punishing their families as well. **(GC-147)**

Why must the inmates' families be punished along with the inmate? **(GC-152)**

Most of the dollars obtained are from inmate families and friends since inmate wages are extremely low. This adds a burden on families and friends who are generally already financially devastated by the nature of the circumstances over which they have no control or blame, yet they are required to pay for restitution for a crime that they did not commit. **(GC-155)**

CDC is not actually taking money from the prisoner, they, or should I say you, are taking from the persons who sent the money, and in most cases these people are the family members of the prisoner. As any expert will tell you, family members of prisoners are among the poorest in the state. Having a loved one in prison not only takes away a potential income from the household, it contributes to their financial hardships placed on the family. **(GC-158)**

I feel like this is an awful burden on the families of inmates. I am on a fixed income and I like to send my son some money to buy the necessities to help him out. With the increase proposed, this becomes a burden on me. I can understand the need for the collection of court ordered restitution but I feel that most families can handle the present percentage. However, the proposed increase would not be able to be handled and therefore, the inmates would not get the allowance needs for hygiene purposes. Many of the inmates depend on the help from their families. I would like to express my opposition to these changes and I feel that your agency should reconsider this proposed change. **(GC-592)**

I don't understand who you think you are going to trouble by this new fee. The money comes from me. My son's not paying you. I am middle class. I can afford to give him a little bit of money. 95% of the people in prison come from families who are on welfare or homeless. They give them money that they want them to spend on soap because the prison provides tiny little soap that does not last all week. It seems to me to be a punishment to those of us on the outside that is consistently done by CDC with their contracts with the telephone company. **(PH-1)**

We very much oppose the new regulations that make it impossible for family members to continue to send any money to inmates. Most of the inmates

depend upon small amounts of money or money orders sent in from family and friends. **(PH-2)**

CDC is taking money from the poor people who have already lost their loved one's support. **(PH-4)**

Approximately 25% of inmates have a pay number. The rest of them rely on their families so we are in essence punishing the families again and again. **(PH-6)**

The people that are getting hurt most by this are the families. Just about anyone in an institution has got somebody on the outside whether it is a wife or mother or brother. **(PH-10)**

This increase would definitely put more burdens on me than I already have. **(PH-11)**

I am a grandmother, have raised a grandson from birth and I am retired and should be able to live on my retirement. I had to go back and get a part-time job because I could not afford to send him money or send him anything. If the percentage is increased I don't know what I am going to do, maybe I will have to get a full time job. **(PH-13)**

**ACCOMMODATION: None**

**RESPONSE:** The Department acknowledges that a significant portion of the money used to pay restitution comes from family and friends of the inmate. However, the Department's primary obligation is to fulfill its statutory requirements as outlined in Penal Code Section 1202.4 and 2085.5. Statistics show that 85% of inmate's parole owing restitution and 93% of parolees will not pay any restitution. It is not the intent of the Department to create a financial hardship on the inmate or their family; however, the Department has a legal obligation to collect restitution from all offenders under its jurisdiction to the fullest extent possible. Increasing the amount deducted for restitution enables the Department to better meet its legislative mandate.

**ISSUE #6: The Commenters below contend that restitution is an unauthorized tax imposed on the inmate and their family:**

Money sent into prison was already taxed by both state and federal tax agencies when it was earned. **(Form Letter A, Form Letter S, Form Letter T, GC-126, GC-149)**

This change in regulations is nothing more than an unauthorized tax increase for the poorest and most helpless among us, namely prison inmates. **(Form Letter E, GC-105, GC-144, GC-151)**

My family pays taxes every year, so why should they and the rest of my family and friends have to pay extra taxes for your employees. **(Form Letter K)**

Money sent into prisons has already been taxed federally and at the state level. **(Form Letter N)**

All of our families pay taxes so if they send money in it is not fair to them. **(A-250)**

I believe the 22% tax now on monetary gifts on inmates is more than sufficient. Considering the fact that anything of value as far as personal necessities are concerned must be bought and paid for at an inflated price by the inmate. **(GC-12)**

You are not taxing the inmate; you are taxing their friends and relatives who in many cases are at the mercy of the legal system having been bled dry by attorneys. **(GC-12)**

I do not feel that money sent to me from my family should be taxed 33% to pay a fine imposed by the court. **(GC-66)**

It is unfair taxing. **(GC-71)**

The net effect is an additional tax on the families of inmates. **(GC-73)**

I am not paying increased fees. I pay more than enough in taxes. **(GC-75)**

This inmate tax is just plain immoral and wrong. Further, using these backdoor processes and excuses shows malicious intent. **(GC-79)**

The state makes money from the interest on the Victims' Fund so this amounts to a tax increase on prisoners for the benefit of the state. The proposed change is nothing more than an unauthorized tax increases on the poorest and most helpless among us, namely the prison inmates. **(GC-98)**

Our family's only work low paying jobs and already pay taxes to the state for people being in jail. **(GC-96)**

It taxes families who send money to incarcerated men and women twice. This is surely illegal. **(GC-108)**

I am against taxing prisoners for restitution any more than is already being taxed. The fact that they have to pay for their own necessities is hardship enough. Families are already more than taxed by supporting the children of inmates, paying for calls, expenses of visiting and the list goes on. **(GC-110)**



Prisoners in California are poor, people of color, the addicted, the mentally ill and under-educated. Families who send money to their loved ones have already paid state and federal taxes and are being taxed again. This proposed change in regulations is an unauthorized tax increase for the poorest and most helpless among us. **(GC-114)**

This amounts to a tax increase for inmates and their families. It is unfair to re-tax them and their families when they can barely afford the inflated prices of necessary items in the canteen. **(GC-117)**

Inmates are currently paying 22% tax right now for restitution for violent crimes. I believe that it is plenty. **(GC-138)**

I am strongly opposed to raising the restitution fee. This is just another way of implementing a tax increase to a group of the poorest and helpless men and women in the state. **(GC-140A)**

Commenter C-156 was hard to read and follow, however, the main concern this commenter has is that she feels that the increase is an additional tax. **(GC-156)**

Parents, family and friends of these inmates will be doubly taxed (unfairly). **(GC-159)**

Our family members are also paying their taxes not just because they happen to have a family member who has been put in the system. **(GC-161)**

Points out that families who send money into their loved one in prison have already been taxed both federally and by the state. **(PH-5)**

I am the one being taxed, not my brother. Frankly, this smells like a tax, it sounds like a tax, it hurts like a tax. Trust me, it is a tax. **(PH-8)**

**ACCOMMODATION: None**

**RESPONSE:** [The Department contends that the restitution collected is not a tax. Restitution is in fact a mandatory component of the defendant's sentence pursuant to Penal Code Section 1202.4 \(c\) and \(f\) which mandates the court to impose both a restitution fine and victim restitution \(also known as a direct order\), respectively on all criminal convictions. Pursuant to Penal Code Section 2085.5, the Department is required to transfer money collected from restitution fines and direct orders to the Victim Compensation and Government Claims Board \(VCGCB\) for disbursement to either the direct victim or to reimburse the Restitution Fund.](#)

**ISSUE #7: The Commenters below believe that the Department should provide more pay slots for inmates so that restitution may be paid without having to resort to the increase:**

CDC should have more paying jobs for inmates so their families would not be so profoundly impacted by their incarceration. **(Form Letter A, Form Letter S, Form Letter T, GC-126, GC-149)**

At CCWF there are five different pay levels starting at \$12.00 a month and capping at \$20.00 a month. Inmate goes on to describe how many pay slots are available within each of the two different drug programs making it so that the women must rely on their family for support. **(Form Letter C, GC-99)**

The vast majority of inmates exists on \$20-\$27 dollars a month if they receive any pay at all, since CDC has systematically reduced paying positions for inmates. **(Form Letter P)**

Approximately 7 years ago, under Penal Code Section 52700, CDC received 6 million dollars for inmate pay numbers, yet CDC fails to pay all working inmates. Contends that the majority of restitution collected is coming from family and friends. **(GC-6)**

Commenter compares CDC to Kathy Lee Gilford. States society was outraged when they learned that she only paid her employees 20-30 cents an hour. CDC pays their inmates only 8 cents an hour IF there is staff available to supervise the work crew. **(GC-7)**

Paying anymore than that is totally unacceptable and cruel considering that the highest pay slot is only a mere 30 cents an hour. **(GC-36)**

CDC has not raised the rate of pay for inmate workers since 1953. We still have 8 cents per hour pay slots. If you do take 33% then apply the whole sum into our children, they are our future and they are the ones who are really being deprived. **(GC-38)**

I feel it is unfair to raise the percent since most inmates have low funds or no funds at all. I feel CDC should give us more in pay slots, as hard as we work, so that the restitution can be paid. **(GC-55, GC-56)**

Is the state willing to raise wages to compensate for these over the top increases? **(GC-64)**

Perhaps by paying inmates at least a minimum wage for their work, restitution can be deducted and still leave the inmate with funds for necessary items for humane daily living. **(GC-81)**

Commenter is a member of the California Sisters of Notre Dame de Namur who has a special concern for just treatment of inmates. The proposed change seems to us unnecessarily punitive and questionable. If this change is made then the salaries of inmates should be raised accordingly. **(GC-87)**

I submit that there is the reasonable alternative of providing a much higher proportion of inmates with paying assignments than CDC is currently practicing. **(GC-101)**

I learned of your proposed changes to raise the restitution fees current inmates are required to pay without any proposed changes in the way, manor or amount of remuneration currently being paid. This idea seems sound if the pay rate were increased accordingly. Without a raise in the amount of wages or salary paid to the inmates, raising the fees seems like a formula for disaster. 55% seems like an absurd amount and a very unrealistic increase unless the compensation is being increased to keep the inmates whole. A proposal that works on a sliding scale seems to make more sense than requesting more than half the wages being paid. **(GC-106, GC-111)**

Please crush this ill-advised attempt to increase the restitution percentage. What is needed in this situation is a long overdue (ten years) cost of living increase for inmates. **(GC-125)**

There has been no cost of living adjustment in the last 10 years; however, the canteen and special order prices have continued to climb. **(GC-132, GC-153)**

If I send my friend \$20 she would be left with \$9.50 up front. Possibly an increase in inmate pay could be a solution. **(GC-135)**

Inmates at Pleasant Valley State Prison declare that the proposed changes will have an adverse economic impact on the businesses set for in the general population based on following:

- a. Inmates argue that PVSP is a delegated vocation institution and pay number jobs are not distributed to everyone.
- b. Inmates contend that PVSP has no Joint Venture Program, PIA program and that lifers' are exempt from IDL projects when they do arise.
- c. Inmates contend that not all workers have pay number positions. If you make over 45 cents per hour you may not work everyday. Only S-time workers would be granted to continue to work should a lock-down occur.
- d. Inmates contend the proposed change will have an adverse impact overall on the general population. **(GC-162 – 586)**

**ACCOMMODATION: None**

RESPONSE: At this time, the Department has no budgetary authority from the Department of Finance to increase the pay slots.

**ISSUE #8: The Commenters listed below state that any additional deductions for restitution would adversely impact an inmate's ability to purchase basic hygiene and supplemental dietary items from the canteen. They further contend that the increase will force them to choose between these items and health and dental care:**

Inmates depend on family and friends for financial help in order to obtain food and toiletries through the canteen. **(Form Letter A, Form Letter N, Form Letter S, Form Letter T, GC-104, GC-126, GC-149)**

General population inmates who have paid jobs average 8 cents an hour for a total of \$12/month. With an increased in restitution hike to 33%, the average inmate will pay \$3.96 in restitution leaving \$8.04 for basic hygiene items. To purchase basic hygiene items from the canteen it costs \$8.25 as itemized from the December 2002 canteen price:

Jergens Soap	\$2.00
Deodorant	1.70
Lotion	1.15
Toothpaste	1.60
Shampoo	1.80

Therefore, with the increase the average inmate with a paid job would not be able to purchase the basic hygiene items. **(Form Letter B, GC-41, GC-48, GC-70, GC-74, GC-81, PH-6)**

CDC's Title 15, Section 3060 states that all institutions will provide the means for all inmates to keep themselves clean and to practice good health habits. To qualify for an indigent hygiene package, the inmate must have less than \$5.00 on their books monthly. With the increase, an inmate with a paid job will not qualify for an indigent hygiene package nor be able to afford to purchase the items from the canteen. By increasing restitution CDC is effectively tying the hands of the inmate and is in clear violation of their own Title 15, Section 3060. **(Form Letter B, GC-70)**

There are many inmates at CCWF who only have their pay slots to provide them with the basic hygiene needs. The rest depend upon their family to send in \$25 a month and it is a struggle for their families to send in that much. After restitution there is not enough to buy basic hygiene items plus laundry soap, stamps and stationary supplies. **(Form Letter C, GC-78, GC-99)**

To be eligible for indigent you must have \$5.00 or less in your trust account at the end of the month. If you have a pay slot of \$12.00 and owe restitution at 33%, you end up with \$8.04 which is not enough to pay for the hygiene items but too much to qualify as an indigent. **(Form Letter C, GC-74, GC-78, GC-98, GC-99)**

Inmates are charged \$5.00 for each medical service request (doctor visit, dentist, optometrist, medication, etc.). By increasing the restitution CDC is forcing an inmate to choose between a valid medical concern and hygiene needs for the month. **(Form Letter C, GC-72, GC-99)**

CDC's "well-balanced" diet is producing unhealthy people by providing diets with too many carbohydrates intended to fill the stomach but of little dietary/ nutritional value. Therefore, family has to send the money for the inmate to purchase dietary supplements from the canteen. **(Form Letter D)**

Since CDC is not properly providing for inmates' hygiene needs, it is obvious that their families and friends will need to. This has been a long-standing practice and tolerated but now you want to make it impossible for families to do that. **(Form Letter D, GC-70)**

CDC is making it a catch-22 for inmates: If an inmate has a \$5.00 balance they are denied the "Indigent Package". How then does anyone afford proper hygiene (notwithstanding the need for medical necessities such as hypoallergenic soap, shampoo, vitamins, antacids and pain relievers which CDC requires inmates to purchase from the canteen). **(Form Letter D)**

If families send money, people can't qualify to get free hygiene products, pens, paper and envelopes. Therefore, inmates depend on family support which when at 55% will become negligible and people will have no money to shop at the canteen for necessities/hygiene products. **(Form Letter E, GC-105, GC-151)**

Certainly you can allow the women enough funds left over to buy sanitary napkins and toothpaste. **(Form Letter F, Form Letter O, GC-81, GC-118, GC-121)**

Many inmates barely make enough with their current prison jobs to afford the simplest of hygiene items. **(Form Letter I, GC-72, GC-78, GC-82)**

The grooming standards that are now in place within the CDC are hard to meet due to the fact that CDC does not properly provide adequate hygiene supplies. I foresee numerous inmate complaints being filed and extra administrative cost simply because inmates will not be able to afford their hygiene items and CDC is not providing them as everyone believes. **(Form Letter I)**

Prisoner salaries are very small and many prisoners depend on family support to be able to purchase basic necessities such as soap and food from the canteen. Such a huge deduction will mean prisoners will either no longer be able to purchase basic necessities from the canteen or their families will have to double the amount they contribute toward their loved one's trust account. **(Form Letter J, Form Letter Q, GC-120)**

Prisoner salaries are very small and many prisoners depend on family support to be able to purchase basic necessities such as soap and food from the canteen. Such a huge deduction will mean prisoners will either no longer be able to purchase basic necessities from the canteen or their families will have to double the amount they contribute toward their loved one's trust account. My wife and I are on Social Security and send our daughter money each month for hygiene essentials. Our fixed income does not give us a lot of extra money for much of anything. We hope you will reconsider the 50% increase. We believe hygiene items will reduce the monthly allocation from the state for each prisoner. **(Form Letter L)**

My wife and I are on Social Security and send our daughter money each month for hygiene essentials. Our fixed income does not give us a lot of extra money for much of anything. We hope you will reconsider the 50% increase. We believe hygiene items will reduce the monthly allocation from the state for each prisoner. **(Form Letter L)**

Some people earn as little as \$11 or \$15 dollars a month. That leaves them \$7.37 or \$10.05 to take care of their needs, hygiene, lotion, etc. and it makes them ineligible for indigent supplies. This is very un-American, unfair, and unreasonable. The 55% will leave them with \$4.50 for every \$10. How cruel is that? **(A-47)**

Inmates will not be able to afford their bare necessities. **(GC-4)**

The food diet is sad. Elders, diabetics, HIV and high blood pressure to name a few need a dietitian on mainline. If the public has any questions or concern of human mankind they need to visit a prison facility. Instead of taking they might rather give. **(GC-5)**

Inmate states she has never received a money order for more than \$45. Once restitution is deducted it leaves her with \$35. Factoring in possible health care, hygiene items, and food, a big chunk is gone. **(GC-7)**

For those inmates who work at 8 cents an hour, taking 33% for restitution would leave them with so little money that they would be unable to buy hygiene items. However, because they do have money on their books, they will not qualify for indigent status. **(GC-8, GC-38, GC-41, GC-88)**

Pleasant Valley State Prison is a vocational/educational facility and does not have Joint Venture, PIA, or IDL programs. If an IDL project does come up most inmates cannot participate. Inmates here do not enjoy the comforts of having a paying wage job but instead rely on family members or friends to help with the basic hygiene items that CDC does not provide. The Director of CDC along with the litigating staff in Sacramento is under the impression that all basic necessities are provided. We receive one small bar of soap and one roll of toilet paper a week along with powder toothpaste and toothbrush. CDC does not provide shampoo, deodorant, or dental floss. On a regular basis about twice a month these supplies do not show up and just have to wait until the following week. **(GC-9)**

By reducing the salaries even more, the inmate will be unable to purchase necessary hygiene items. **(GC-10)**

An average pay slot is \$12 a month providing that you work 130 hours, which is difficult due to lock downs, weather, and other security issues. After restitution is deducted at 22% there is only \$9.36 left. If the increase is passed, inmates will be expected to survive on even less (which will not cover hygiene items from the canteen). Furthermore, the inmate has allergies and requires special skin products that CDC will not provide; therefore, her parents must send her these items. **(GC-11)**

I am allergic to state toothpaste and soap, so I must buy my hygiene products. **(GC-15)**

Commenter is an inmate at CCWF and generally disagrees with the proposed increase stating that it cost too much to maintain the barest of hygiene necessities. **(GC-17)**

Commenter is an inmate at CCWF and is concerned that with the increase she will no longer be able to purchase necessary hygiene items from the canteen. Her family only sends \$30 a month and after restitution she only has \$23. With the increase there will be nothing left. **(GC-20)**

This commenter is an inmate at CCWF and can barely afford the cost of living as it is. Increasing to 55% would eliminate her ability to buy hygiene and food, which is all ready, too high, from the canteen. **(GC-23)**

Inmate receives \$50 from her sister to get what she needs from the canteen for hygiene items. If the increase is approved then she will have nothing. **(GC-24)**

Commenter is an inmate at CCWF and has a restitution fine to pay. Inmate goes on to state how hard it is to survive in prison since she is poor and has no money except what her sister sends in. Inmate will pray that the increase does not go

up because she needs her hygiene products. Inmate is also concerned about the affect the increase will have on other low-income families. **(GC-24)**

Is worried that she will not be able to buy hygiene items if the increase goes into effect. She only receives \$40 a month now from family and that barely gets her by for her hygiene products. **(GC-26)**

We already struggle, as it is to buy our much-needed hygiene. **(GC-36)**

An increase in restitution deduction would enable many of the inmates not to purchase necessary hygiene items due to canteen prices. Many ladies like myself do not receive quarterly packages, therefore, must purchase hygiene items from canteen. **(GC-45)**

I have great concern about your restitution changes. First it is ridiculous. Second, health care is big issue. We pay \$5.00 co-pay a visit. The public has a false image of prison life for there is nothing positive emerging from a stay. Food sucks, people are falling dead from lack of health care, poor food diets, etc. **(GC-58)**

The proposed increase would not be handled by most families and therefore the inmates would not get the allowance needed for hygiene purposes, etc. **(GC-46, GC-49, GC-50, GC-62, GC-63, GC-72)**

My paycheck does not cover my basic needs. CDC is unreliable but my family is. I have good shoes because of my family not CDC. I wear glasses because my family cares. Look at my diabetic sugars and tell me CDC cares. Please leave our restitution alone. **(GC-60)**

I think that the standard 22% is sufficient and that the cost of hygiene and personal items sold here is so expensive that to raise the restitution fee will cause most of us here to be unable to fulfill our basic needs. **(GC-64)**

Certainly being incarcerated should not mean one couldn't have toothpaste to keep their teeth clean or have to use rags for sanitary napkins. **(GC-86)**

Priorities are not in order here at all. Health care is dreadful and I have personal issues pending. For health and dental care we must pay for services at \$5.00 co-pay, however, you don't get seen until it's an extreme emergency or death. **(GC-5)**

I disagree with the increase. I make 8 cents an hour that comes out to \$12 a month. After the 22% restitution is deducted, its only \$9.36, which is not enough to buy hygiene, and you are not allowed to receive soap from this prison if you have more than \$1. Please don't raise the restitution. **(GC-32)**



I disagree with the increase cause some of us women only have our pay slots. The 22% is too much and the jobs here only pay cents and it is hard to care for myself as it is. If you were to increase the restitution I would not be able to buy hygiene at all. Please do not raise the restitution. **(GC-35)**

I am ok right now but at 33% and then 55% it would definitely impact my basic staple needs with my leave time in 2008. Please reconsider your proposal across the board. At best do a case-by-case basis. **(GC-43)**

Any money I get comes from my folks. My dad is retired and my mom is on disability. Do you really think that I will continue to have money sent to my books? **(GC-68)**

Most inmates have very little, \$13 a month and out of that must pay a \$5 co pay for any needed medical visit. The current 22% is already a great hardship. **(GC-80, GC-112, GC-128, GC-134)**

The high prices CDC wants inmates to pay for restitution is unfair because they would not have enough to buy the necessities that they need. **(GC-84)**

This is extremely unfair to the inmates who have jobs, the majority of them who make less than \$30 a month. This barely affords them the money to buy hygiene necessities at the canteen. **(GC-90)**

Increasing the amount to 55% is punitive and would create undue hardship on inmates who need to purchase "life necessities", toiletries, hygiene products, medical and dental appliances, etc. **(GC-95)**

I use \$15 a month or so just on basic hygiene and so this minimal amount of money is really necessary. **(GC-101)**

Inmate salaries are very small but enough to keep many inmates from qualifying for indigent status. Inmates depend on family support, which if 55% is deducted, will become negligible and they will have no money for hygiene products, postage, and other necessities. **(GC-114)**

Inmate restitution is based on good moral cause. However, taken too far this process can be made unethical. An inmate needs the basic necessities to get by in the institution. Considering the prison pay scale for those incarcerated, the inmate may not even be able to afford to take care of his or her basic needs. Some are fortunate to have families to send them money and quarterly packages with some of the supplies they need. This is not the case for all inmates. **(GC-125)**

I am against the increase of percentage of restitution withheld from an inmate's funds because inmates without funds can get hygiene items at no charge. All others must pay for these items from their trust account. **(GC-132, GC-153)**

It would cost \$61.95 to buy a 5" black and white TV from the approved vendor. The inmate must add 10% for Inmate Welfare Fund. If the inmate has a job or funds sent, restitution is taken out and they are no longer eligible for the hygiene items described in "a" above. Using the current 22%, an inmate making 10 cents per hour could not even afford to buy his personal grooming supplies. But if an inmate were able to save for a 5" black and white TV without buying anything else, at 22% he would have to save \$87.91 (for the \$53.97 TV), which would take 800 hours or 5 months. At 33% he would have to save \$102.23 or work 930 hours or work six months. At 50% he would have to save \$136.30 and work 1,240 hours or eight months. Surely you can see how impossible it would become for an inmate to purchase even the bare necessities. **(GC-132, GC-153)**

These deduction increases from an inmate who earns \$13 a month seems harsh and would leave inmates unable to manage their medical and personal needs. **(GC-133)**

I believe the increase is unfair because the inmates doing work are paid a minimal wage yet are still expected to purchase health and hygiene items. With the proposed increase inmates will be unable to purchase these items. People should have the ability to maintain their basic needs and to be compensated for their labor. This may lead to productive life after release and keep fewer from returning to custody. **(GC-135)**

Inmates barely are able to provide themselves with the needed toiletries in order to maintain decent hygiene. **(GC-139)**

Most of the inmates do not have jobs or pay numbers; therefore, they have to rely on their families to send funds to them. By taking 22% from these funds it barely leaves the inmates money to purchase personal supplies they need. There are items that the families cannot send in their quarterly package that inmates need to purchase. **(GC-154)**

As it is, even with a job, it is hard for an inmate to buy even the necessities, much less any luxuries with money left over after deductions. **(GC-157)**

Inmates at Pleasant Valley State Prison argue that they do not make sufficient money as it is. The new regulations will not leave inmates with enough funds to purchase their personal hygiene. **(GC-162 – 586)**

CDC is already taking out 22% of the income that we get. The little bit of money that my family sends me is hardly enough already. My mom works hard to help me while I am incarcerated, plus I only make 11 cents an hour which 22% of that

goes to restitution. If this 33% goes into effect most of us women will be without the things we need: hygiene, medications, food that some of us cannot eat in the dining hall. I feel that 22% is a lot already and if it goes up any higher we will be without the things that are truly important. **(GC-589)**

We already struggle, as it is to buy our much-needed hygiene. Please re-evaluate this situation. **(GC-590)**

There are women in prison that can't even get any money to them and are indigent or their family cannot afford it. I think 22% is fair. 33% or 55% is much too high. If our family sends us \$20 a month, what is left over to buy our hygiene? Thank you for your time and please do not raise the restitution and leave it at 22%. **(GC-591)**

Many prisoners with HIV, hepatitis C and other life-threatening illnesses depend upon shopping at the prison store to secure more nutritional foods than are available in the dining hall. These prisoners, the most vulnerable members of the prison population, will be detrimentally affected by the proposed rule raising restitution fees. It is unconscionable for the state to punish them further. **(J-25)**

I am very concerned not only for my son but for the thousands that are in they're who are not going to be able to buy soap or toothpaste. There are institutions that, because of certain religious sects in the prisons, are no longer selling soap that have animal fat in it, waxes in it, toothpaste that they need to use and now you won't even let them have the money to buy what is there. **(PH-1)**

Patients who need dialysis are not able to receive special food nor inmates with cirrhosis of the liver able to receive special diet that are really needed in order to keep their health up. **(PH-2)**

For a medical visit inmates are currently required to pay \$5 co-pay, which requires most inmates to decide between paying for basic hygiene supplies and medical care. **(PH-3)**

The rate of restitution should not be increased for inmates or for the families that put money on the books of inmates. The proposed change in the amount of restitution is an assault on individual inmates as well as on the community who attempts to maintain support of the inmates by putting money on their books. The financial state of those inmates even those working full time are over burdened by the exorbitant rates inmates must pay for basic hygiene. CDC must recognize this policy proposal will further exacerbate the health care crisis within CDC. **(PH-3)**

Families may not be able to continue sending in money; therefore, the inmate will not get any money and will not be able to purchase hygiene items. They depend on family support. **(PH-5)**

You don't qualify for indigent as long as you have any money on your books, yet you can't spend less than a \$1 at the canteen. **(PH-7)**

What they do with their money is supplement food. I have watched throughout the years inmates go from 180 pounds down to 120 pounds because of living on just the food provided. **(PH-10)**

**ACCOMMODATION: None**

REASON: The California Code of Regulation (CCR), Title 15, Sections 3050 – 3056 provide the basic policy for food services. Basically they state that each inmate shall be provided three meals a day, two of which will be hot. The nutrition levels shall meet the recommended daily allowance established by the Food and Nutrition Board of the National Research Council. CCR, Title 15, Sections 3060 – 3064 provide the Department's guidelines on inmates' personal hygiene. Briefly summarized they state that institutions will provide the means for all inmates to keep themselves and their living quarters clean and to practice good health habits. CCR, Title 15, Section 3354.2 provides that an inmate will be charged a \$5.00 fee for each inmate initiated health care visit. However, if the inmate is without sufficient funds at the time of the visit and for 30 days thereafter, the inmate will not be charged the remaining balance of the fee. CCR, Title 15, Section 3355.1 provides the dental care policy that states each inmate upon entering a Reception Center shall be screened to meet basic needs. Once in a mainline institution, an inmate over the age of 50 shall be reexamined once every two years and all other inmates examined annually. These sections document that the Department provides adequate care for inmates. Any impact an inmate might experience due to the increased percentage will not preclude them from the obtaining basic health care necessities.

**ISSUE #9: The Commenters below feel that there is no need to align the Department with the California Youth Authority since they are two separate agencies and house two separate groups of offenders.**

Commenter is challenging that CDC is not aligning itself with CYA since CYA houses juveniles and CDC houses inmates. Contends that this alignment is more burdensome on taxpayers and private persons. **(Form Letter D)**

There is no need for consistency between CDC and CYA. Both have different CCR Title 15, chapters, and programs. Juvenile and adult convictions, sentencing, and housing are different. **(GC-6)**

Commenter offers the following alternative: have CYA lower their restitution deduction to 20%. This alternative would be more efficient for the following reasons: reduces the number of subsections needed to Section 3097, eliminates

the necessity to gradually increase the collection rate, and it would standardize the rate of collection of restitution and fines for both CYA and CDC. **(GC-21)**

If CYA is currently having 55% collected that is also unfair and their 55% should be reduced to align with CDC, not the opposite. **(GC-25)**

Your excuse that you need to make it uniform with CYA is laughable since it is a separate department. **(GC-30)**

To compare restitution of minors in custody to that of adults is not appropriate because holding the family member on a minor responsible is appropriate under the law. That responsibility does not apply to the family of adult inmates. **(GC-65)**

CYA wards are not responsible for themselves, invariably do not have the same hygiene or other necessities to make life bearable and their terms of incarceration are generally far shorter than adults. Furthermore, CYA wards' financial support is built into the family financial planning and therefore, integral to the family budget. This may not be the case with adult prisoners who are mostly operating outside the family's budget. **(GC-70)**

These two organizations have different goals and directives. CYA is dealing with youths whose parents are still responsible for their welfare. Additionally, the purpose of CYA is to guide, correct and counsel youth to change their behavior and become productive members of society. CDC's goal is to punish adults for crimes committed. This punishment should not extend to putting an extra burden on their families. **(GC-73)**

CDC claims that the only way to correct the disparity of collections between CYA and CDC is to increase the percentage. This is fraudulent on its face. This can simply be addressed by reducing the amount collected from the CYA wards to 20% from their newly acquired funds. **(GC-79)**

I object to the position that it is necessary to have consistency in government operations and standardization of the collection rate to increase the collection rate to 50% in line with CYA. The collection rate in CYA is at 50% likely because they are inexperienced as a whole and much less able to present coherent opposition than a much more seasoned and savvy adult inmate population. **(GC-101)**

It appears that the primary reason for changing the amount currently collected is to standardize the collection rate for all victims in California as the CYA is currently collecting at a rate of 50%. So it seems that the families of the youthful offenders in the CYA continue to be victimized. If you wish to provide consistency in government operations and standardize the collection rate for all

victims in California, why not consider an alternative and change the CYA rate to align the CYA with CDC? **(GC-136)**

When you collect 50% from the funds that a youthful offender receives, you are collecting from the money that the offender's family or loved ones send. Youthful offenders usually have no other means of support other than their families and most of these are single parents. Ways in which an adult inmate earns money are through pay numbers or crafts that can be sold. CDC does not offer the vast majority of inmates a pay number for jobs performed nor are there many opportunities to sell crafts. **(GC-136)**

You state that you want to align CDC with CYA as the reason for this proposition. But you fail to realize that CYA as opposed to CDC houses juveniles. Making their parents responsible for any actions or fines incurred by them is ok. They are kids not able to pay fines thus justifying a 55% restitution rate. **(GC-137)**

**ACCOMMODATION: None**

**REASON:** The Initial Statement of Reasons for this restitution increase states, "These regulations allow the CDC to collect the maximum amount allowed by the Penal Code and subsequently align the CDC with the California Youth Authority (CYA), who is currently collecting restitution from its wards at a rate of 50 percent in accordance with the Welfare and Institutions Code. Both the CDC and the CYA report through the Youth and Adult Correctional Agency, therefore, by aligning the CDC's restitution collection rate with that of the CYA will not only provide consistency in government operations, it will standardize the collection rate for all victims in California." The Department contends that all offenders sentenced in California shall have the same amount of restitution deducted from their wages and trust account deposits regardless of their age.

**ISSUE #10: The Commenters below strongly believe that the true purpose for the restitution increase is to generate more revenue for California and use the interest from the restitution to offset the State's budget deficit.**

This is a blatantly exploitative way to make more money off prisoners and their families because the restitution money goes to the victims' fund where the state makes money off the interest. A larger fund means more interest for the state. **(Form Letter E, GC-151)**

Inmates are already being punished by their prison terms, it is unconscionable for the state to punish them further in order to help balance the budget. **(Form Letter E, GC-98, GC-105, GC-144, GC-151)**

I protest your plan to increase victim compensation by taking money from inmates in a manner whereby the state makes money from it. **(Form Letter F, Form Letter O, GC-118, GC-119, GC-121)**

It should not be overlooked that the state is facing a huge budget deficit. The state earns interest from the restitution fund, which will undoubtedly grow if these proposed regulations take effect. A larger fund means more interest for the state. The budget problem should not be addressed on the backs of prisoners. **(Form Letter J, Form Letter Q, GC-10, GC-120)**

I don't think that I should have to pay for an administrative fee when the state hires them and personnel gets paid for processing our restitution. **(Form Letter K, PH-6)**

The court orders us to pay restitution, so why are you taking more fees out of our money? **(Form Letter K)**

Bailing out the poorly administered Restitution Fund Program by expecting the families to pay for it is wrong, plain and simple! **(Form Letter Q)**

CDC collects the money but does not pay it out to victims but instead distributes it to itself and other government agencies. **(Form Letter R)**

It should not be overlooked that the state is in a huge budget deficit. The state earns interest from the restitution fund. It is a sad state of affairs when the state resorts to taking money from the poor. **(GC-4)**

Claims CDC is making false statements when it justifies increasing the restitution. Commenter is making this based on the fact that victims are paid regardless of the amount of restitution collected at the prisons. States that only CDC will benefit from this increase. Based on the commenter's calculations, in 2004 CDC will be making 150% on the administrative fee. **(GC-6)**

Because our State Executive did a poor job in managing the energy crisis and the state now has the resultant mess, it is unfair, unjust, and unconscionable to place part of the burden of generating funds on the backs of inmates who are already being punished by incarceration. **(GC-10, GC-75)**

Do victims ever see this money? **(GC-29)**

Why does it cost more money to take more money? Increasing the administrative fee from 2% to 5% is an insult to our intelligence. **(GC-30, GC-38)**

This is just one more way California endeavors to raise revenue at the expense of the families. **(GC-31)**

If an administrative fee is necessary it should come from the restitution that it is being deducted from, not an addition too. **(GC-47)**

I think what is in effect a tax on my parent's love for their son is an attempt for CDC to offset their budget problems. **(GC-59)**

How is the 5% administrative fee necessary when the state employee who performs the administration of the restitution funds are salaried employees and are paid by the State of California. **(GC-65, GC-75, GC-77)**

It is not fair that money intended for me should go to the State Board of Control. **(GC-67)**

Trying to offset its budget shortfalls on the backs of those inmates, families and friends is immoral and wrong. **(GC-79)**

I am aware that the state's budget is in dire straights but we hope you will remember what the long-range results of such a punitive funding plan might bring about. **(GC-86)**

We are concerned that the interest on this victims' fund would gain money for the state at the expense of the basic necessities for women inmates for toiletries and personal hygiene. **(GC-87)**

I am totally against the increase. The State of California is in a budget crisis and you are just trying to exploit a captive population: prisoners and their families. I know the money goes to a victim's fund where the state makes money off the interest. An increase in the restitution percentages is the wrong way to solve the budget crisis and is unfair to those already locked up. **(GC-97)**

It cannot possible actually cost CDC 10% of the amount collected to simply transfer funds from one arm of the state to another arm of the state. The state is effectively then charging me to transfer my money to itself. **(GC-101)**

We all know about the huge state budget deficit. The weakest among us should not bear the brunt of what happens in our state. **(GC-108)**

In 2002 CDC acknowledges collecting \$9 million in restitution fines. Monies in the state victims fund are primarily a source of revenue for the state from the interest earned, currently 20% plus a 2% administrative fee and restitution in the same amount from inmates' paychecks. With a state budget deficit of \$34 billion, this proposed regulation change is a blatant exploitation of prisoners and their families. Serving their sentences is already punishing prisoners; it is irresponsible and unfair for the state to punish them further in order to help balance its budget. **(GC-114)**

I understand that there is a huge state budget deficit, but inmates have not caused this and the proposed regulation changes exploit them and their families. Before any of the "restitution" money goes to victims, the state makes money on



the interest. **(GC-117)** It is not our problem that the state has such a large budget deficit. Please find another source of income. **(GC-122)**

We as family members are being ripped off by the prison phone system, restitution fees, food vending machines, canteens, and now it looks like the State wants to burden families even more...and all this money will be setting and earning interest for the state that seems to be in trouble. **(GC-123)**

It is my opinion that the State of California is already getting more than enough interest from these inmates. Each of these persons is paying a debt to society already and the meager amount of money they receive from their families or make in their jobs is already being dunned enough. The State of California needs to find a different and more humane way to balance the budget. **(GC-124)**

The people really hurt by the restitution fee are the prisoners and their families. It is totally illogical to believe that the fee goes to victims. To think that the CDC keeps track of the location of victims from my son's crime is naïve. Then, what is the fee really used for? **(GC-131)**

I know that the State of California has a budget crisis on its hand, but I am opposed to increasing the percentage of restitution being withheld from inmate funds. **(GC-154)**

It is intolerable to try to balance the State budget on the backs of an already financially challenged group of people. **(GC-155)**

The state will be getting more interest at the expense of already distressed families (emotionally and most times financially). **(GC-159)**

Prisoners are not responsible for the budget deficit and the budget should not be balanced on the backs of prisoners. Extra interest for the state from raising the restitution fund is not worth the pain and suffering to prisoners and their families. **(J-25)**

I do not understand why it is going to cost 3% more for these people to take more money out. Then they are going to take 5%. Where does this money go? I think we have a right to know and we are not told. We are told that it is to pay their restitution but the money does not end up on their books. **(PH-1)**

We do not believe that it should be inmates who are forced to balance the budget because for the most part, they are people who are making 9 cents an hour working inside a prison. **(PH-2)**

The level of profit that CDC makes on inmates and families of inmates must be checked. **(PH-3)**

Public Hearing tape is inaudible but basically commenter is stating that it is wrong for the state to make money off the inmates. Believes that the state is making money off of the interest. **(PH-5)**

**ACCOMMODATION: None**

**REASON:** The Department contends that this restitution increase is not an effort to generate revenue to offset the States budget deficit. This restitution increase is being pursued in order to allow the Department to collect the maximum amount of restitution allowed by the Penal Code and subsequently align the CDC with the California Youth Authority. Pursuant to Penal Code Section 2085.5 (a) and (b), the Department has the authority to deduct between 20% and 50% of inmates' wages and trust account deposits for restitution collection. In addition, subsection (c) gives the Department the authority to deduct an additional 10% to use as an administrative fee and mandates the Department to transfer all restitution collected from inmates for disbursement to either the victim or to reimburse the Restitution Fund to the Victim Compensation and Government Claims Board. In addition, an audit trail exists to document how the restitution money is disbursed including the 10% administrative fee which is used to pay for the collection process and to support 19 staff positions throughout Inmate Accounting, Case Records, Information Systems, and the Office of Victim Services and Restitution.

**ISSUE #11: The Commenters below challenge the Department's authority to increase restitution citing that it violates inmates' due process, double jeopardy, equal protection, ex-post facto clause and various other constitutional rights.**

Inmate acknowledges that PC Section 2085.5 provides for a maximum deduction of 50%, however, denies that there is a mandate that permits the maximum amount be collected for court ordered restitution. **(Form Letter P, Form Letter V)**

CDC fails to show good cause in support of the proposed increase as the 20% deduction has served well for nearly 20 years. **(Form Letter P, Form Letter V)**

The nature of the proposal may also interfere with an inmate's right to access the courts by imposing a significant financial burden. The cost of postage, legal paper, correction tape are not insignificant. Professional services are well beyond the means of most inmates and their families. **(Form Letter P, Form Letter V)**

Increase serves no legitimate penological interest, as it does not address any current deficiencies in the current regulatory policy or procedure. **(Form Letter P, Form Letter V)**

The increase of collection of monies is excessive in the first place (see people v. Gangemi). **(Form Letter R)**

The State Constitution requires that fines imposed not be excessive. CDC adds a 10% administrative fee that violates the protection against government abuse (see People v. Anderson, People v. Long, Alexander v. United States) **(Form Letter R)**

The fine collection procedures currently in effect do not comport with due process because a \$300.00 trust balance must be maintained before collection can take place (see Terhune v. Superior). **(Form Letter R)**

Any removal or confiscation of an inmate's money without their written consent is unconstitutional and violates the Due Process and the Equal Protection Clause of the 14<sup>th</sup> amendment. After all, the government does not take restitution from "Free" indigent citizens without the indigent "Free" citizen's written consent. **(Form Letter U, GC-79)**

Over 50% of the inmate population is imprisoned for victimless crimes, therefore, for CDC to take restitution in the name of paying back a victim who does not exist constitutes fraud. **(Form Letter U)**

Increase violates the Ex-Post Facto Clause, the rights of the thousands of inmates who were sentenced to prison prior to the 1992 and 9114 amendments to Penal Code Section 2085.5 **(Form Letter V, GC-79)**

Restitution increases should not be used to keep people in prison. Ability to pay cannot be maximized while in prison. **(GC-1)**

Restitution fines and direct orders are part of a court order with a minimum and maximum limit, just like most of the terms of imprisonment clauses on crimes. It is Ex Post Facto to increase the punishment of the fine to persons who have the minimum deduction applied. CDC cannot decide to pass a law to change low terms and midterms of sentences to the high terms because it was an option at sentencing. If passed it should not be retroactive to those already convicted. **(GC-6)**

Commenter is a taxpayer and knows no one in prison but believes that raising the restitution is adding an additional punishment on the inmates. The proposal is unjust, highly punitive and unrelated to compensating victims since inmates already have a portion of their salaries garnished for restitution. **(GC-10)**

The increase subjects the inmates to a greater punishment that only can be imposed by a court. Further it will lead to numerous habeas corpus petitions filed by inmates throughout California because it borders on ex post factor punishment. **(GC-22)**

The initial 22% deduction was taken into account by the judge at the time of sentencing. Increasing to 33% changes the whole arrangement made by the court. **(GC-22)**

The amended rules being proposed adds on financial element that seems to me as “double jeopardy”. **(GC-47)**

CDC should audit who is paying restitution. It is arbitrarily imposed by the courts and therefore some violators get additional \$200.00 added and some don't. **(GC-75)**

Commenter **GC-79** contends that CDC is violating numerous rights of inmates:

- a. First error is that any amount of collection must be court ordered. The court must make a specific order for its collection and do so within the confines of due process. The court must determine the amount that can be reasonably collected from an individual person based on that individual person's ability to pay.
- b. Second error, the court is limited by law to order collection in an amount not to exceed 20% of the specific individual's newly acquired funds which are deposited in the inmates trust account.
- c. Third error is that any change in the law, which would authorize the collection in the amount greater than the defined 20% cannot be affected against fines previously imposed and determination previously made. It can only be affected regarding newly imposed fines.
- d. Fourth, restitution fines are unconstitutional wherein the courts have not made a specific determination that damages have occurred and the amount of those damages.
- e. Fifth, the law prohibits the collection of an administrative fee in excess of 10% or the 20% of the amount of newly acquired funds received by the inmate in his trust account.
- f. Sixth, the formula to determine the restitution fine is based on the inmate's estimated wages during their imprisonment. This would reasonably exclude funds and monies received as gifts from family and friends.
- g. Eighth, wherein the state has determined that the state's current budget crisis requires the elimination of most all inmate wages it renders the whole restitution theory unlawful and unconstitutional because the data upon which the formula is based on is invalid. **(GC-79)**

CDC is risking tort actions in the form of class lawsuits. CDC can do anything they want in the case of those persons you have been charged by the courts to incarcerate, as long as you are within the boundaries of the law. However, when you reach out to the public, who are not under your control or authority, you are stepping over legally defined boundaries. **(GC-92)**

I will seek a judicial review if this passes per Government Code 11350. **(GC-95)**

I depend solely on love ones to help me with necessities. I, as most of the inmates here live on fixed incomes, therefore, monies that we get isn't often. 22% is too much but 33% is flat out unconstitutional. **(GC-5)**

I do not agree that the Director has rulemaking authority as pervasive as it is implied by assertions in the Notice under Penal Code Section 5058 to make specific Penal Code Section 5054 through amended CCR Section 3097. **(GC-101)**

I strongly object to the assertions that Penal Code Section 5054 and 5058 collectively authorize the Director to amend provisions governing restitution fines and direct order collections. The collections have nothing to do with the care, custody, treatment, training, discipline, and employment of inmates. The Director cannot just assume jurisdiction to substantially alter the manner in which such restitution fines and direct orders are collected. **(GC-101, GC-162-586)**

It is also my belief that in any event the 50% maximum collection rate is absolute, meaning no more than 50% of an inmate's income in total can be collected including the administrative fee, so that in real terms no more than half the inmate's income is taken. It is absolutely ridiculous that more of my money would be taken from me than I would get for my own use. **(GC-101)**

This all hints at double jeopardy. **(GC-157)**

I am a CDC prisoner with a restitution fine. When I was sentenced the judge order me to pay this fine out of my prison wages. He did not order me to have my other finances attached. This recent proposal takes us to a whole new level of absurdity. **(GC-158)**

The big question I have is the constitutionality of an intermittent, intermediary non-Congress organization increasing arbitrarily and with no cap, not controls. **(PH-8)**

#### **ACCOMMODATION: None**

**REASON:** Article I, Section 28(b) of the State's constitution states, "Restitution shall be ordered from the convicted person in every case regardless of the sentence or disposition imposed, in which a crime victim suffers a loss, unless compelling and extraordinary reasons exist to the contrary." Penal Code Section 1202.4 (c) and (f) mandates the courts to order both a restitution fine and victim restitution (aka direct order) in every case upon sentencing. Penal Code Section 2085.5 (a) and (b) gives the Department authority to deduct from inmates wages and trust account a minimum of 20% to a maximum of 50% for restitution. Penal Code Section 2085.5 (c) authorizes the Department to deduct a 10% administrative fee. The Department always had the authority to deduct restitution

at the higher percentage. In the early stages when restitution was first being deducted, the Department implemented the minimum 20% to use as a benchmark. Sufficient time has elapsed to contend that 20% is not meeting the needs of the victims in California and imposing the higher percentages is necessary. This regulation only increases the percentage being deducted from inmates' wages and trust account deposits. It does not increase the amount of the court order fine or direct order.

**ISSUE #12: The following Commenters state that the increase in restitution deductions will cause a negative impact on small business that supports the canteen sales.**

This will have a direct effect on the CDC contractors, as they will lose hundreds of thousands of dollars yearly. Every canteen and each prison will be affected and a loss of revenue to the Inmate Welfare Fund is unavoidable. This issue was never addressed in the NCDR and should have been. **(Form Letter I)**

Commenter contends that the increase will adversely impact small business that support the canteen, Arts in Corrections, hobbies, special purchase and food sales that raise money for charities. With restitution at 22%, most inmates have 78% of their money to spend on these special programs. With the increase to 55%, small business will be greatly impacted because inmates will have less money to spend. **(GC-21)**

I do not know what extent of businesses rely on revenue generated by inmate's direct discretionary spending at the canteen but to whatever extent there will be a reduction in available funds thereby negatively impacting any business that benefits from direct inmate purchasing. **(GC-101)**

This will have a significant impact on economic business. If the state canteen loses money, canteen products are not purchased or purchases go down, which in effect will determine the amount of goods obtained from any given local vendor or small business. **(GC-137)**

**ACCOMMODATION: None**

**REASON:** Based on the California Youth Authority's (CYA) experience (please see response to Issue 3 for the details on CYA's authority) the Department expects a similar occurrence with their canteen revenue after implementing the 33% deduction and again after implementing the 55% deduction. It is expected that any negative impact small business may feel during the initial implementation will quickly subside once the canteen revenue returns to its prior operations.

**ISSUE #13: Commenter points out the difference between the implementation date in the text and the Initial Statement of Reasons included in the Notice of Change to Director's rules 02/12.**

Commenter points out the discrepancy between the implementation dates listed in the regulation language and the Initial Statement of Reasons. **(GC-18, GC-25, GC-47, GC-59)**

**ACCOMMODATION: Yes**

**REASON:** The Department inadvertently listed the incorrect implementation dates in the restitution language. A 15-day renote is being sent to all initial commenters to inform them of the correct implementation dates. The correct dates for the implementation is July 1, 2003 for the 33% and July 1, 2004 for the 55%.

**ISSUE #14: The following Commenters oppose the increase in restitution deductions stating that they did not have enough time to submit formal statements of objection.**

Commenter claims Corcoran State Prison is not posting the proposed changes to the regulations where inmates and parolees can review and respond in a timely manner. States that he will contact YACA and the Inspector General Office regarding this problem. **(GC-2)**

The inmates should have been properly notified along with a considerable amount of time to gather enough signatures to stop this unfair action. **(GC-48)**

Groups and agencies that support inmates, such as the NAACP, ACLU and various prisoner rights' organizations should have adequate time to assess the full impact of such a controversial change before CDC implements the proposed changes. CDC has not provided any justification for immediately adopting the proposed changes; therefore, we should avoid undue haste that may result in unwarranted hardship on inmates and their families. **(GC-73)**

I object that there is not a clearly indicated provision by which the text and the Initial Statement of Reasons of the proposed regulations can be made available to inmates, the single most directly affected segment population of the proposed regulations. **(GC-101)**

**ACCOMMODATION: None**

**REASON:** The Department contends that we have complied with California rulemaking law under the Administrative Procedure Act (APA), Government Code Sections 11340 et seq. Accordingly, the notice was posted in all

institutions and parole field offices accessible to inmates/parolees and was distributed to inmate law libraries and advisory councils. In addition, the Department received hundreds of written comments in response to this regulation. A significant portion of these responses came from inmates themselves. In addition, one full day was dedicated to a public hearing in which 13 people came forward to express a verbal opposition to the regulation. The Department has determined that sufficient time was permitted for all those who wished to make a comment regarding the regulation pursuant to the APA.

**ISSUE #15: The following Commenter's contend that the regulations were not of an emergency nature and did not meet the guidelines for filing as emergency regulation.**

Adopting this regulation as an emergency rule change does not comport with due process because there is no imminent danger. **(Form Letter R, GC-101)**

Furthermore, these emergency rules, which allow collection of funds from inmates, are discriminatory against underprivileged inmates. **(Form Letter R)**

**ACCOMMODATION: None**

**REASON:** These regulations were processed in accordance with the Administrative Procedures Act as a non-emergency regulation. The Department acknowledges that the implementation date cited in the initial regulation language may have led readers to believe that the increase in restitution deductions were being implemented January 1, 2003. However, the language used in the 15-day renote clearly indicates that the Department plans on implementing the new restitution deductions on July 1, 2003.

**ISSUE #16: The following Commenters offered letters of support for the restitution increase.**

This letter is to support the proposed changes to amend Section 3097 in the California Code of Regulations, Title 15, Division 3 relating to the restitution fine and direct order collection. Restitution is a vital component in the offender's duty to restore victims and our communities. I strongly urge support for the proposed change to better serve victims and our communities. **(GC-127)**

The Monterey County District Attorney's Office fully supports the efforts of CDC to gradually increase restitution and direct order collections. **(GC-140)**

Projected shortfalls in funding to the California Victim Compensation and Government Claims Board require that all revenue enhancement options be considered in order to ensure that the board remains solvent and be able to continue to properly serve and assist crime victims in California. **(GC-140, GC-141)**



Aligning the maximum CDC collection rate allowed by law with CYA will not only standardize the collection rate for all victims but will be invaluable in helping to balance Board expenditures with project revenues. **(GC-140, GC-141, GC-148)**

According to recently published figures, since 1992 California inmates have only paid 13% of court ordered restitution. **(GC-141)**

Outlines the Board's shortfalls by comparing its revenues with its expenditures for fiscal year 2000-2001, as well as the current Fiscal Year. **(GC-141)**

The reserve that the Board once maintained to handle the shortfall has now been exhausted, and although the Board is currently in the process of implementing internal changes to increase their revenue, the Victim Restitution Fund will still be in debt. It is reported that the proposed changes will generate an additional \$11,000,000 a year. **(GC-141)**

It's reported that the proposed changes will generate an additional 11,000,000 a year. **(GC-141)**

California Youth Authority has been deducting 50% to satisfy restitution since 1998, and it is time for CDC to do the same. **(GC-141)**

Supports the proposed amendment to Section 3097(f) because parolees should be held accountable in the same way that inmates are. **(GC-141)**

The Los Angeles County District Attorney's Office supports the expansion of the victims' rights and efforts to make innocent victims of crime financially whole. We support CDC's proposal to increase the amount deducted from the current rate of 20% to 50% by 2004. This modification would increase the ability of victims to receive restitution and enhance restitution collected for the California Victims of Crime Compensation Fund. **(GC-143)**

The Victim Compensation Board (Board) supports CDC's proposal to amend Title 15, Section 3097. CDC collects approximately \$8 million annually through inmate trust account deductions for the State Restitution Fund. Even with CDC's collection activities, 81% of inmates who are ordered to make restitution are released from parole still owing it. The Board urges CDC to raise it to 50% immediately. Restitution was codified in the Penal Code 20 years ago and is recognized as an essential part of a victim's right and a vital component in alleviating the devastating effects of crime on a victim. Amending CDC's regulations to deduct a higher percentage from inmate trust accounts would provide much needed dollars for the Restitution Fund and enable the Board to continue providing essential services to victims of crime. **(GC-148)**

**ACCOMMODATION: None**

**REASON:** The Department appreciates these comments of support.

**ISSUE #17: The following Commenters were summarily dismissed because they were made in the form of a general statement, unsubstantiated assertion or opinion and no reasonable accommodation on the part of the Department is possible. The following comments were received but are not relevant to the proposed regulation change.**

Commenter is a hard-worker, tax-paying citizen who has never been convicted of any crime but does have a loved one at CDC and will continue to financially assist them. **(Form Letter D, Form Letter V)**

Please find a better way to reduce prison costs. The Justice Policy Institute has some excellent publications with very sound ideas and suggestions for improving the system. It would make far better sense to try some of their ideas than this insane proposal. **(Form Letter G)**

Prisoners are already being punished by their prison terms. Prisoner's families are already being punished by having to drive huge distances for short visits, losing their loved ones daily emotional and financial support, and having to raise children without one parent in the home. It is unconscionable for the state to punish them further. **(Form Letter J, Form Letter Q, GC-120)**

We feel a 10% increase would be easier for us. **(Form Letter L)**

Funds inmates receive are used to purchase books, magazines, correspondence courses, religious material, hobby supplies, hygiene products, medical co-pay and legal materials. **(Form Letter P, Form Letter V)**

Funds inmates receive also foster family ties, paying for greeting cards and forwarding of funds to family by inmates to provide other gifts and modest support to love ones such as minor children. **(Form Letter P)**

Funds inmates earn are not there to reward them for a job well done but it enables them to engage in extracurricular activities and privileges, thereby making it easier for custody staff since the atmosphere is less stressful. **(Form Letter P)**

Families already contribute a gross amount to the general fund via the huge profit to the state for prison generated collect calls. To ask the families to contribute more is unconscionable. **(Form Letter Q)**

Monies sent to an inmate confined in prison are not originally meant to pay a fine in the first place. **(Form Letter R)**

CDC at Tehachapi is not adequately providing hygiene supplies such as toothpowder, toothbrushes, razors, etc. Tehachapi has reduced the issuance of a bar of soap from one a week to one every other week. **(Form Letter U)**

The eventual increase to taking 55% of inmate's wages and trust account deposits regardless of the source of the income, and taking into a fair consideration the modest amount some inmates earn, I find it impossible to justify this action. **(Form Letter V)**

Letter uses a quote from Judge Crosby, "Prisoner cases are somewhat unique: of all persons, perhaps, society is less justified in breaking faith with those it has deprived of their freedom. We treat here the incarcerated individuals whose life must be lived under demanding circumstances (with little to look forward to.) **(Form Letter V)**

The disabled prisoners who are entitled to State SDI, Federal SSD, and perhaps partial payments could be made to support these prisoners so they too would have income that could be used for restitution. **(A-40, A-48, A-49, A-50, A-123, A-124)**

CDC should establish a contract with low monthly payments and low interest with the inmates and then make that contract a condition of release. **(GC-1)**

Commenter is an inmate at Corcoran State Prison and wrote to request information about any increase to the restitution collections. States that the first he heard about it was from a letter he received from somebody who downloaded it from the Internet. **(GC-2)**

Commenter is an inmate at CCWF and states that if restitution stays at 22% she can pay off the balance herself upon release. **(GC-3)**

Money for staff salaries will have to come from other sources during this deficit. No more loans to CHP. **(GC-6)**

Does having a number after our name justify raising our restitution rates, feeding us in ways that are unfit for a dog and giving us the shabbiest of healthcare? **(GC-7)**

Commenter tries to imagine how CDC could come up with such a hideous proposal and that it should reconsider. **(GC-7)**

Commenter is an inmate at CCWF and does not always have a paying job; therefore, she has to rely on her parents for support. Commenter goes on to state that most pay slots were removed and that she is currently completing her basic education and not now eligible for a paying job. Between what she does

earn (when working) and what her parents give her, there is still not enough to survive on. **(GC-11)**

I realize that you could not be less interested in an innocence story but the fact does occur that an innocent person can be incarcerated. This happened to my stepdaughter. I have proof, but as I said before why would you be interested in her story when the people who are responsible for her situation completely ignore it. **(GC-12)**

Does the number of inmates statewide project that more hold paying jobs than not? If more do not have paying jobs, then you should propose to deduct from inmate wages 70% for the victims' fund and keep the 22% deduction for money sent in from the outside. I can really appreciate CDC's interest here in getting more for the victims fund, but you must consider the inside perspective, the mind of the criminal. **(GC-13)**

Commenter is an inmate at CCWF serving a 15-year to life sentence. She has a \$16,000 restitution order which she will never be able to pay off. Inmates' states that it is hard to purchase items from the canteen since there are deductions for everything (restitution, 10% for handicraft and the pending law suite). Her parents are dead and the inmate is disabled making it hard for her to get a pay slot. Inmate must rely on the financial assistance from friends. **(GC-15)**

Commenter is a parent of an inmate at CCWF. They are an average family with a moderate income. They send money to their daughter each month for necessities since their daughter is allergic to some things the state provides. **(GC-16)**

Commenter is an inmate serving 25 years and has AIDS. His only source of income is his prison pay number. He makes \$27 a month, which is just barely enough to buy toiletries and extra food for when he is too sick to walk to the mess hall. Prison pay numbers were put in place to keep prisons from becoming feudalistic societies. Taking what little we have will only greatly increase the chances of this happening. People are sent to prison because they broke the law and we live in prison for a specific period of time as determined by the court. At no time in any sentence did any judge say, "You shall suffer!" **(GC-19)**

Inmate contends that KVOR did a news report about the near bankrupt victims fund. The reason was an increase in disbursements in 2001 that more than doubled those of 2000. One disbursement was for \$1 million to New York City for the 9/11 victims. One is left to wonder if the problems with the victims' fund is linked to poor judgment in donating so much to NYC. **(GC-25)**

Complains about the cost of a phone call from the prison. In addition CDC should be preparing the inmate to lead a productive life on the outside.

Commenter is also encouraging other people to write opposing the increase. **(GC-30)**

Commenter contends that CDC is charging too much for phone calls since Virginia charges 45 cents. Believes that the 3-strikes law is a moneymaking racket for California. **(GC-31, GC-89)**

Commenter has a son at Mule Creek and agrees that their son deserves to be punished but not in a cruel manner. When he wants to call home we are punished by having to pay MCI \$19.50 for 15 minutes and then we are interrupted by a recorded message. Phone calls are therapy for the entire family. Goes on to state that they will be seeing their son in January 2003 and would arrangements be made to speak to the warden about conditions at the prison. A "P.S." was written but was obviously written to a third party and was not meant for CDC. **(GC-46)**

The proposed change is ludicrous, ridiculous, and shameful. **(GC-47, GC-52, GC-71)**

People try to give a little then they cannot even enjoy it. **(GC-49)**

Please clarify how fines and restitution will be collected from an inmate on parole and will this increase apply to all fines and restitution on record or only current ones? Is this order to include all past fines and restitution that remains unpaid on record? **(GC-65)**

Please amend the regulation to read:

"Any inmate who owes a fine imposed by the court shall be made to pay the 33% or 55% out of his or her wages when he is working in a PIA job from 9 to 5 on the streets and that the money sent to him by family or friends be excluded from this rule due to the fact that a deposit made to his account be a relative or fine has nothing to do with his crimes against society. The inmate and inmate alone should be punished." **(GC-66)**

Adding layers of additional punishment such as your proposed amendment seems mean spirited at best and may have the unintended consequence of increasing inmates' hatred of free society. **(GC-70)**

This will possible lead to more families requesting and receiving government support in the form of food stamps, increased welfare subsidies and housing subsidies. Without a proper study of the total effect of the proposed change on the families of inmates and the communities where they live the changes could have severe unanticipated consequence. **(GC-73)**

My exposure to state employee leaves bitterness in my mouth as this affirmative action in hiring and education has destroyed the great State of California. **(GC-75)**

CDC should implement a reduction in sentences from 35%-50% for non-violent cases. These correctional officers are lazy and worthless, prison does not reform. The cost would be worth spending in education. **(GC-75)**

This proposal shortsighted public safety policy in regards of parolees, few of which have the resources to survive now. This will create more victims of crime and increase the already unconscionable rate of recidivism. When restitution loses it's meaning as a way of making amends for harm done and becomes a cause of doing harm, it becomes a form of extortion. **(GC-77)**

For parolees, there should be a formula that would allow case-by-case flexibility with the primary concern being the goal of successful completion of parole and reintegration into society. **(GC-77)**

Most restitution is paid from lifers or long term-ers. The victims will be paid their full restitution over a period of time. Most parole violators are responsible for any, if not all, unpaid restitution. Amending the provisions to govern their fines should instead be imposed. Perhaps it should be a requirement before discharging that a parole violator's restitution is paid. This will encourage payment. **(GC-78)**

I remain very committed to the idea that non-violent criminals should be released and given work-in-the-community sentences. This will save the taxpayers millions of dollars and rehabilitate the people who need self-esteem by working. **(GC-82)**

I would like to express my dismay at learning that a greater percentage of inmates' restitution is going to be deducted from their trust accounts. The vast majority of inmates are released from prison and are expected to fit back into society. How can we expect them to do this if they are not taught how to be responsible citizens? One way of teaching this lesson inside prison is to make inmates responsible for earning the money they owe as restitution. **(GC-83)**

I question the fairness of your plan to use a large portion of prison inmates' allowances to fund a victim compensation program. Finland has a "kindler, gentler" prison system by treating inmates as clients and keeping them in a humane environment and has accomplished a very small rate of recidivism. **(GC-86)**

Our rights have been infringed on when it comes to toughing our men during visiting, speaking to our men on the phone, and now we can't even send them a few dollars to buy Ramon noodles. **(GC-89)**

How much more money do you think loved ones can afford to send each month to cover expenses for their loved ones? Have a heart and leave things be. Do you know I spend an average of \$600 a month for visits, phone calls, stamps, clothes, food, herbs for his Hepatitis C. **(GC-91)**

Commenter states that CDC is resorting to extortion. Extortion is executed under duress with the knowledge of the extortionee. The purpose for the extortion is irrelevant. CDC is engaged in other forms of extortion besides restitution....over priced phone calls. **(GC-92)**

One of the most prominent errors made by the justice system in the state is to take restitution payments from pools of money that are not the rightful property of the person adjudicated to pay that restitution. Starting with CYA, the state extorts money from the families of the wards. CDC is following this erroneous line of thinking. **(GC-92)**

CDC might want to consider what KY governor did...release those prisoners whose sentences are almost served and allow them to carry their load as productive working citizens instead of sitting on their duffs behind prison walls. **(GC-93)**

This change is not needed, as there are other avenues for collection of unpaid restitution fines and direct orders such as attaching gate money and the FTB intercept. **(GC-95)**

When I leave this place I will be a taxpayer, I will be able to stand on my own feet. However, I also have a duty to take care of my son who is also incarcerated. Please do not do this to someone who is already paying their debt to society for a crime they committed. **(GC-96)**

There has already been a tax cut this month but it does not help the poor man but for the rich it is a good thing. **(GC-96)**

Put yourself in my place. If it were your family member locked up and you were sending money for them to take care of themselves and you found out that person was only getting half how would you feel? Not too good I would think. Most people taking care of a family member in jail are already cutting corners to help that person out. **(GC-96)**

I reserve objection at this time on whether the proposed action imposes mandates on local agencies or school districts. **(GC-101)**

Commenter is incoherent. Basically I think the inmate is complaining about having to pay \$5 to get medication. Inmate states they would like to change the

way the system just took our money for health care services. Comparing restitution to the cost of health care in prison. **(GC-103)**

I have a son in CDC sentenced as a petty theft "Three Striker". He was given a sentence of 27 years to life and a \$5,000.00 restitution fee for shoplifting a \$130.00 television. **(GC-105)**

A prisoner must be presumed to be in a state of poverty by the virtue of his incarceration. A poverty stricken family who are also tax payers, shall also have their money, a charity be taken under the guise of restitution imposed upon someone else? A payment again to the state or government. **(GC-113)**

My pay number is for \$48 a month which I seldom clear with fog lines, lock downs, etc. I very seldom receive money from my family who is also living below poverty and then there is the 22% restitution being taken from the received money which I may receive one or twice a year. Is this another Enron under the color of authority, or is it just straight out robbery under the color of authority? The bottom line is that I am an indigent, poverty stricken prisoner, and do not see the penological interest for increasing the amount of restitution I am already being forced to pay. **(GC-113)**

I was sentenced for the crime of which I was incarcerated as a direct result of a plea bargain. The plea bargain was the result of coercion supported by a promise of lesser time. It was never mentioned that I would be subject to restitution, it was not a part of my attorney's admonishment and I did not enter into the agreement with the knowledge that I would have to pay restitution. I was informed after sentencing that I would not be subject to paying restitution until after I was paroled and would be able to establish a payment plan. **(GC-113)**

I have four children, five grandchildren, seven stepchildren and seven step-grandchildren. At the end of each pay period I cannot even purchase any birthday or Christmas cards for any of them. Goes on to say that he has not seen any of them in over 15 years. As commenter is preparing this letter a correctional officer is asking for donations for a children's charity. He would love to give but once everything has been deducted he has nothing left to buy basic necessities. How dare they ask me to even think about purchasing a pizza. **(GC-113)**

We are unaware of any time restraint on the repayment of court fines. **(GC-115)**

Why don't you reduce the salary increases that the correctional officers have received and add that to the Victims' Fund. Don't take more money away from inmates who are working for less than slave wages while the correctional officers are over paid and under worked. **(GC-116)**



Justice without mercy is not justice; it is an eye for an eye and a tooth for a tooth. Many of those offenders have repented of their mistakes. Chains tightened on them will break their spirit. Blessed are they who show mercy. **(GC-119)**

My husband lost 50 pounds and is very thin because he cannot get enough food even with the money I send. I travel 1,600 miles every two weeks by car to visit because it is the only way to get to Pelican Bay. Our restitution is paid but I know of mothers who save for three months to share traveling expenses to visit. **(GC-120)**

These inmates who have made mistakes, some quite severe, still deserve to be treated as human beings. Many of them certainly did not intend to do anything that would hurt another, but circumstances changed that, and it can happen to anyone even the most pious of the population. There are evil people in our world, who simply does not care and who are so ego driven that nothing stops them, but there is also the percentage of people who under most situations, would not harm another. **(GC-124)**

Additionally phone calls and visits themselves, which are absolutely vital in keeping the "connection" with the incarcerated, loved one, are a major drain on already limited family income. This is a difficult situation all around, families of the victims, inmates and their loved ones, and the state budget crunch as well. Higher restitution is not the answer. This would lead only to higher level of stress among the prison population due to lack of basic (and lack of ability to save for the extras like a radio, television, hobby supplies and even eyeglasses. No one needs the increased tension or lack of hope among the inmates. It is not necessary for me to delineate the problems that this would bring about. **(GC-125)**

Unfortunately, you have a prison population (and their families) that the CDC can manipulate at its will. Because of the money flowing within the California prison system, you can have a bad mix of politics, unions, and many people who depend upon the system for a living. **(GC-131)**

Inmates are required to work. The majority of inmates do not get paid. Currently only about 25% of inmates have a pay number. The remaining 75% must rely on their families or loved ones to provide them with funds. **(GC-132, GC-153)**

Most pay numbers are less than 34 cents per hour. Prison Industry jobs top out at 75 cents and IDL jobs at 90 cents per hour. There are very few Joint Venture jobs in the State of California. **(GC-132, GC-153)**

Commenter contends that if an inmate is transferred with any holds on their books for a family visit, then upon arriving at the new prison, that hold should be removed and the amount be allowed to be used for restitution deductions. **(GC-141)**

It has become very clear to me in my 7 years of education in the ways of prison life, that the vast number of inmates earns no income at all. Those involved in education programs or working in menial jobs in prison earn nothing and rely completely on outsiders for monies for toiletries, stamps, snacks, or any needs they might have. **(GC-145)**

It is not, however, surprising to realize that this proposal has not been widely publicized to inmate family members and friends. Inmates are considered an invisible population because of their inability to vote and consequently to have political voice. It has long been assumed that the voices of their families and friends are equally inconsequential. You may be sure that times are changing. Families are learning that they do vote, they do have a voice, and we will make ourselves heard when we feel injustices are about to take place. **(GC-145)**

We are retired and in our mid seventies. We are trying to make life better for two inmates in your system. Freda Butler worked for us for many years as a live-in caretaker for our elderly mother. We think Freda was swept away by testimony that was strongly influenced by the potential of cash restitution and that cash was all that mattered to the alleged victim. In other words the alleged victim would say anything to get that money. Charles Johnson was a friend of ours. His sentence of three life terms plus 25 years is absolutely ludicrous. A review of his trial would reveal that he was so far over-sentenced that justice was not even considered. **(GC-149)**

Some inmates have no income at all and no outside support. The pay slots are very minimal. They start at 8 cents an hour and go up to 95 cents an hour in various jobs in the prison. The Joint Venture Program is the highest paying job at minimum wage but only available to a selected few. **(GC-150)**

We feel that the restitution of 22% is at a fair percentage for inmates who have to rely on their own money they earn and have family and friends who help by sending them money. **(GC-150)**

There are the charges for collect phone calls, even when you live in the same town. **(GC-152)**

It is easy to sit behind a desk and make these decisions when it doesn't affect you or someone that you love. **(GC-154)**

Commenter wrote a separate letter just dealing with the cost of medical and dental care inmates is forced to pay before they can work in the fire camps. **(GC-157)**

I have been incarcerated in CDC since 1995. I have been on the receiving end of many changes aimed at making life more difficult for inmates. CDC has

restricted a class of prisoners from conjugal visits, taking away fitness equipment, yard photos, implemented grooming standards, and of course, implemented the collection of restitution. I rank at the very bottom of anyone's list of popularity. The question is "when will enough be enough?" **(GC-158)**

If I could make that drive up to Sacramento to speak to your committee I would be there. The drive is not a problem that I did for two years to see my husband but it is a new semester and school will be in session. I urge this committee to keep the restitution at 22%. I have a college degree certificate to work in California prisons, but ever since my life was put through this system my outlook on your department has changed. **(GC-160)**

I send my husband \$25 per week, accept all collect calls averaging \$75 per month or more, annual packages \$200 or less, and visit twice a month so gas is \$80 and \$60 for vending machine. I am just lucky that I have a good paying job without children. In conclusion I urge this committee to keep the restitution rate at 22% and take over the vending machines at each prison. There is lots of income coming in. I heard that on a good weekend vending machines brings in \$6,000 and in 52 weeks \$31,200. **(GC-160)**

We also work and have fundraisers for victim funds where we inmates raised \$100,000.00. Not justifying just stating a fact. When is "enough" sufficient? **(GC-161)**

My son is an inmate at Mule Creek and he has relayed to me information regarding these changes pertaining to the collection of court ordered restitution to the Victims Compensation and Government Claims Board, specifically the proposed change to increase the amount of restitution from 22% to 33% once the change is adopted and an increase to 55% in 2004. **(GC-592)**

When my son bought a TV two years ago, I could have bought it in the store for \$49, because we had to buy it through your system it was \$329 for a \$49 TV set. **(PH-1)**

Many inmates that we work with and many of the inmates that my committee directly advocates on behalf of are inmates with HIV, hepatitis C, and other life threatening illnesses. CDC for the most part does not provide essential guidance for inmates with serious diseases. **(PH-2)**

The latest move by CDC is one of a series of moves. It started with the family visiting regulations that said a 7-year old could not sit on their father's lap. Families already drive a long way to visit behind glass and have to pay MCI for phone calls that give a kickback to the state. **(PH-4)**

We are led to believe that our loved ones are receiving cruel and unusual treatment for the lengths of their sentences. Not only have they received 25 and

above to life we have many longer sentences. Most inmates come from a one-parent family. These parents are not making the kind of money to be oppressed in this way. They are already oppressed and to oppress them further is objectionable. **(PH-7)**

I have a son who is a first time offender. I am a single parent. I was divorced from his father when he was probably about 18 months. I feel as though CDC has victimized me and my other children as a result of the rules and regulation that are in place now. **(PH-11)**

He is close enough where we can go and visit him two or three times a week. I don't want my child to lose hope because even though he has to pay the time, he is still a responsible person and he learned from his mistakes so I know he will come out and be an asset to our community. **(PH-11)**

**ACCOMMODATION: None**

**REASON:** Although the above comments/objections do regard an aspect or aspects of the subject proposed regulatory action or actions and must be summarized pursuant to GC Section 11346.9(b)(3), the comment/objection is either insufficiently related to the specific action or actions proposed, generalized, or personalized to the extent that no meaningful response can be formulated by the Department in refutation of or accommodation to the comment.

### **Summaries and Responses to 15- Day Renotice Public Comments:**

- 15-day renotice commenters are labeled: **RE 1, RE 2, RE 3** etc...

#### **ISSUE #1: The following Commenters had general objections to the increase in restitution deductions from inmates' trust accounts:**

Taxes are taken out of families' pay to then add the high rates of phone call, plus restitution fees! I believe fees should only be deducted from the inmates' salary, which by the way is next to none, free or almost free labor. If it were not for the extra food money sent to prisoners, the state would have many more sick inmates on their hands at an additional expense to taxpayers. Please reconsider. Thanks. **(RE 5)**

Tawana Lovette is protesting on that restitution is going up for you to take 35% to 55% out, my family is on a fixed income and I'm protesting on that. **(RE 5)**

My sister does not have much to look forward to, her future is to be surrounded by fences for the rest of her life, please help her to hang on to the few positive things in her life. I urge you to stop the proposed restitution deduction increases, or at least only take from money that the inmates have earned, not money that loved ones have gifted to their family members. **(RE 11)**

Inhumanity is inhumanity for the sake of justice please reconsider. Whatever the proposed reason for this amendment is, please realize that if the ultimate goal is to reduce commitment, this is a step in the wrong direction. Self-esteem is integral to rehabilitation and self-image is closely related to self-esteem. This amendment would do nothing to encourage rehabilitation. **(RE 17)**

I found it personally unbelievable that anyone would be able to survive on 45% of their income (after taxes nonetheless!) if this amendment were to be passed requiring 55% of income to be used for restitution without any regard for their ability to pay such an amount, thus almost forcing them to return to the system. Please find a way to take into consideration, each person's ability to comply with such a law, making provisions for those who would not be able to survive otherwise. **(RE 19)**

I ask that you take time to reconsider this proposal for us who are doing long terms or life sentences it would be nearly impossible to take care of ourselves with the proposed amendments. Take into consideration that we are here incarcerated and the fines are being paid as section 3097 is already written it is unnecessary and inhumane to raise the deductions. **(RE 25)**

It is my firm conviction that the raising of the rate for restitution from 22% to 33% then to 55% is grossly immoral. Many inmates are already very depressed regarding their incarceration. Many times they have very little contact from

anyone. To take 55% from the little money that some of them received would be a horrible ruling. I beg of you in the name of justice, please reconsider. The 22% is high enough. **(RE 27)**

### **ACCOMMODATION: None**

RESPONSE: The Department recognizes the fact that certain commenters have strong feelings about the increase in restitution deductions from inmates' trust accounts. Currently 96% of inmates have a restitution obligation as part of their sentence. At the current deduction rate of 22%, only 15% of inmates parole with their restitution fully paid. The Department has determined, therefore, that the increase is necessary in order to more effectively comply with its legal obligation to collect all restitution owed by offenders under its jurisdiction.

### **ISSUE #2: The following Commenters contend that the increase in restitution will create a financial hardship for both the inmate and their family:**

A lesser collection rate 15%, 5% admin should apply to prison mothers with kids and families. **(RE 1)**

This letter is to protest the proposed hike in restitution fees from 22-33% and to go to 55% in January 2004. This is wrong! First of all families didn't commit the crimes, but the hike adds more burdens on them, victimizing them. **(RE 5)**

My son has to pay restitution fines and that is fine, but I do not agree with this part. What I disagree with is his father and I should not have to pay. His dad is retired and I only work part time. We send him money each month to buy things he needs to get by in prison. Now they take 20% of what we send and you want to increase it to 33% and in 2004 to 50%. I'm sorry this is not right. He should pay not his parents, and that is what is happening. I'm sure a lot of parents feel this way, not just us. Please reconsider the changes you want to make. Thank you. **(RE 7)**

I am protesting the matter of inmate restitution increase. To raise the percentage from 22% to 33% then to 55% is unreasonable and unfair to the families trying to assist their loved ones. I often try to send my sister any extra money that I have available, but if she is not able to benefit from what little monetary help I can send her, soon I will be forced to discontinue sending her any money. I feel it is important for my sister to be able to buy a few things a month for herself, this little bit of freedom helps her maintain a healthy mental frame of mind and keeps her from becoming depressed. **(RE 11)**

Your proposal to change the policy of 22% restitution deduction from all incoming monies would create a hardship on me. I am in a vocational class and receive no income from it. My family can afford to send me only a little money. It takes

\$22 a month for my personal hygiene products. I am asking that the proposal not be made a policy. **(RE 13)**

I am an inmate at Soledad State Prison. The proposal to increase restitution will cause me to live in impossible situations. Our family has very little money, and on a fixed income. The current rate at 22% is large enough amount to impose on incarcerated inmates. Please reconsider and have some mercy and compassion on us. Please do not cause us to suffer more than we are. **(RE 14)**

I object to the wording "regardless of the source of such income" throughout this document. In attaching to funds that are provided by family members to the CDC is taking restitution payment from the family. The logic is this: family members send money to inmates to facilitate communication between the inmate and the family. Therefore, family members are, in essence, paying for a service (maintaining contact with a family member.) The inmate is the person owing and responsible for the restitution payments ordered by the court; the family is not under court order to pay. In using these monies to pay the inmate restitution, the CDC is extracting money from the inmate families. The majority of inmate families are lower income and cannot afford to increase these monies by the designated percentages to cover restitution payments. The CDC does not have the legislative authority to collect court-ordered restitution payments from other persons other than the inmates in your charge. Therefore, money provided by inmate families must be exempted from the restitution payments and administrative fees. **(RE 15)**

When the restitution rate goes to 55%, it will take \$229 for the inmate to have \$99 spending money. Does this kind of action contribute to unrest, depression, and anger among inmates? Does it place a family, already taxed financially and emotionally, in an even more difficult position to maintain family contact – a vital source of maintaining the peace in prison – in a nearly unworkable situation? The answer to both of these questions is a resounding yes! **(RE 20)**

No one in my family, with the exception of my sister has committed any crime. It should not be our responsibility to pay for restitution. Our family could afford to pay the outrageous percentage rate proposed, though we may chose not to. Many families cannot afford the price. People convicted of crimes, and not their families, should pay restitution. Any amount of money earned must be adequate to purchase items needed. Don't make families responsible for the prisoners' illegal behavior. Make the prisoners responsible themselves. **(RE 23)**

I have read the Notice of change to text that appears to change no more than the dates that the families of prisoners will be forced to take on an even greater financial burden because of an action over which they had no control. On behalf of responsible citizens everywhere, I am outraged. Rehabilitation is accomplished only through enforcing personal responsibility. **(RE 23)**

It is really not right for any inmate to have that amount of money deducted from them especially if their families have to take care of children. Such as my family who has to take care of my children until I get home next year. I do not think that is right and I oppose the restitution being raised completely. **(RE 24)**

**ACCOMMODATION: None**

**RESPONSE:** The Department acknowledges that a significant portion of the money used to pay restitution comes from family and friends of the inmate. However, the Department's primary obligation is to fulfill its statutory requirements as outlined in Penal Code Section 1202.4 and 2085.5. Statistics show that 85% of inmate's parole owing restitution and 93% of parolees will not pay any restitution. It is not the intent of the Department to create a financial hardship on the inmate or their family; however, the Department has a legal obligation to collect restitution from all offenders under its jurisdiction to the fullest extent possible. Increasing the amount deducted for restitution enables the Department to better meet its legislative mandate.

**ISSUE #3: The Commenters below contend that restitution is an unauthorized tax imposed on the inmate and their family:**

I am writing to strongly oppose the implementation of proposed regulations raising restitution fees. This change in regulations is nothing more than an unauthorized tax increase for the poorest and most helpless among us namely prison inmates. With the huge state budget deficit, this is a blatantly exploitative way to make more money off prisoners and their families because the restitution money goes to the victims' fund where the state makes money off the interest the victims' fund earns. A larger fund means more interest for the state. **(RE 18)**

**ACCOMMODATION: None**

**RESPONSE:** Penal Code Section 1202.4 (c) and (f) mandates the court to impose both a restitution fine and victim restitution (also known as a direct order), respectively on all criminal convictions. Restitution, therefore, is a mandatory component of the defendant's sentence. Penal Code Section 2085.5 mandates the Department to transfer the money collected from the restitution fines and direct orders to the Victim Compensation and Government Claims Board (VCGCB) for disbursement to either the direct victim or to reimburse the Restitution Fund. If the defendant does not make restitution payments during their incarceration or parole, neither the victim nor the VCGCB will receive any money. Restitution is not subsidized in any way by California taxpayers.

**ISSUE #4: The Commenters below believe that the Department should provide more pay slots for inmates so that restitution may be paid without having to resort to the increase:**



I am without a spouse or family, have no means of support other than an occasional \$10 or \$20 money order from friends. I had a small pay slot job here at CCWF until my annual review and placement in S.A.P. Now there's no pay positions for the students. **(RE 7)**

**ACCOMMODATION: None**

RESPONSE: At this time, the Department has no budgetary authority from the Department of Finance to increase the pay slots.

**ISSUE #5: The Commenters listed below state that any additional deductions for restitution would adversely impact an inmate's ability to purchase basic hygiene and supplemental dietary items from the canteen. They further contend that the increase will force them to choose between these items and health and dental care:**

The majority of women at CCWF only make 8 cents an hour, if that, are able to purchase a few hygiene items, but by taking 33% out you will be depriving them of their necessities. The state gives 1 par of soap, 1 razor, 1 toothpaste, and 1 deodorant for hygiene for indigent per month. We cannot live on only 1 bar of soap per month. **(RE 4)**

Think of the medical damage it will do. There will have to be more medical staff on duty because the women won't be able to take care of themselves with proper hygiene. We are all against this 33% increase. **(RE 4)**

What is 55% of \$18.60? \$10.23 what's left? \$8.37. How much does it cost to cover basic hygienic and communicative needs? Lets see:

1 bottle of shampoo	\$1.80
3 bars of soap	\$1.50
1 tube of toothpaste	\$1.60
5 envelopes	\$.15
5 stamps	\$1.85
1 pen	\$1.05
1 small box of detergent	\$4.10
Total:	\$12.05

Now imagine you had to make the decision. What could you do without for a month? Remember you are not indigent the institution will not cover any of your needs. (even if you are indigent you wouldn't be taken care of, but that's another issue...) It's a difficult decision, but if these amendments go into effect it is a decision most inmates will have to make. 232.5 hours of hard manual labor a month (approximately) for \$8.37 doesn't seem fair, there is no justification. **(RE 17)**

Salaries are very small but enough to keep many inmates from qualifying for indigent status. If families send money, people can't qualify to get free hygiene products and pens, paper and envelopes. Therefore, inmates depend on family support which, when 55% is deducted, will become negligible and people will have no money to shop at the canteen for necessities. **(RE 18)**

We were told to meet a deadline of March 25, 2003, in regards to not change the 22% restitution to 33% and then to 55% next year. We wish the 22% to remain the same and getting partial restitution paid; than the state not receiving any; the reason being all our families will no longer mail money into the institution if restitution goes up. Reason being that many of us will still remain indigent, with more going to restitution, than to us inmates; our families want the money to benefit us here buy buying hygiene and so on, not unpaid bills (restitution), that we can pay upon our release. Please keep the 22% restitution! **(RE 22)**

I am fully aware that I owe restitution but with it going up to 33% is not really feasible to me or my family because with the money that my family sends me every month I can barely buy hygiene's and personal items I need. Also with the money I do get I am charged for co pays so if I only get \$25 to \$50 a month I will not have enough money left for anything, So would you please reconsider raising the restitution because I have eleven more months left it is really not fair to us as inmates our families. **(RE 24)**

I find this change inconsiderable and appalling. I have a pay slot which pays \$17 a month which leaves me with \$13.26, the minimum for necessities monthly from canteen would cost \$12.70 (8 bars soap, 1 shampoo, 1 toothpaste, 1 deodorant, 1 laundry detergent, 1 lotion), these items wouldn't even be enough for a full month with the inventory dead draws. The amendment to section 3097 would leave me with \$11.39, where I would have to reduce my hygiene to what's already minimum to less than. The further amendment (Section B) would give me \$7.65. This is a disaster for those of us who have minimal wages already. We're struggling to buy hygiene to last a month and are not eligible for indigent so therefore we are not given bars of soap or deodorant. All hygiene items are purchased through canteen. **(RE 25)**

We didn't all have help and support from the streets, we don't have options for gate passes and full day PIA positions, we don't all have a locker full of hygiene and canteen, don't receive quarterly packages or special purchases. Due to a heinous 602 our meals have been cut in half size portions, I don't receive enough to even maintain the small 130 pounds that I was...In reality, I fully take responsibility for my poor choices, my incarceration, and my restitution (although my crimes are victimless)...But I also appeal to you and want to stress the fact that indigent packs are poorly substitutes. Bunk products never enough to ensure anyone's hygiene for a full month, If we receive one at all. Items always tend to be shorted. All blamed on the budget...to me hygiene and nutrition come first and foremost in or out of incarceration. Restitution as is, 22% is still a hurtful

cut in anyone's friends that only periodically are even blessed with any financial support at all. It gets paid, eventually on the 22%. **(RE 26)**

**ACCOMMODATION: None**

REASON: The California Code of Regulation (CCR), Title 15, Sections 3050 – 3056 provide the basic policy for food services. Basically they state that each inmate shall be provided three meals a day, two of which will be hot. The nutrition levels shall meet the recommended daily allowance established by the Food and Nutrition Board of the National Research Council. CCR, Title 15, Sections 3060 – 3064 provide the Department's guidelines on inmates' personal hygiene. Briefly summarized they state that institutions will provide the means for all inmates to keep themselves and their living quarters clean and to practice good health habits. CCR, Title 15, Section 3354.2 provides that an inmate will be charged a \$5.00 fee for each inmate initiated health care visit. However, if the inmate is without sufficient funds at the time of the visit and for 30 days thereafter, the inmate will not be charged the remaining balance of the fee. CCR, Title 15, Section 3355.1 provides the dental care policy that states each inmate upon entering a Reception Center shall be screened to meet basic needs. Once in a mainline institution, an inmate over the age of 50 shall be reexamined once every two years and all other inmates examined annually. These sections document that the Department provides adequate care for inmates. Any impact an inmate might experience due to the increased percentage will not preclude them from the obtaining basic health care necessities.

**ISSUE #6: The Commenters below strongly believe that the true purpose for the restitution increase is to generate more revenue for California and use the interest from the restitution to offset the State's budget deficit.**

Prison inmates are already being punished by their prison terms, it is unconscionable for the state to punish them further in order to help balance the budget. I hope you will not implement these regulations. They are unfair, unjust, punitive and unrelated to the expressed purpose of compensating victims. **(RE 18)**

**ACCOMMODATION: None**

REASON: Penal Code Section 2085.5 (a) and (b) gives the Department authority to deduct between 20% and 50% of inmates' wages and trust account deposits for restitution collection. In addition, subsection (c) gives the Department authority to deduct an additional 10% to use as an administrative fee. This Penal Code section also mandates the Department to transfer to the Victim Compensation and Government Claims Board all restitution collected from inmates for disbursement to either the victim or to reimburse the Restitution Fund. An audit trail exists to document how the restitution money was disbursed.

The 10% administrative fee is used to pay for the collection process without using any taxpayers' money. The 10% administrative fee is used to support 19 staff positions throughout Inmate Accounting, Case Records, Information Systems, and the Office of Victim Services and Restitution. These positions are funded solely from the administrative fee collected from the inmates and parolees.

**ISSUE #7: The following Commenters argue that this rule change will adversely affect parolees.**

Parole violators should be incarcerated with standard restitution payments reactivated. Parole violators should be back to prison at the discretion of their parole officer. **(RE 1)**

With regards to this new regulation concerning the amount of restitution parolees have to pay, I urge you to reconsider the effect the new rate may have in many cases on the motivation of parolees to stay out of the criminal justice system. A process that takes into account the individual ability to pay will, I am sure, retain the need to keep parolees responsible without undermining their determination to succeed. **(RE 8)**

Please reconsider the hardship it would impose on parolees by establishing the policy of deducting 55% of earned income for restitution. This policy will greatly reduce the possibility of a successfully parole program. It is difficult enough to reenter a society with too many prejudices. It is difficult to stand strong and begin a new life without any resources and the inability to be self-supporting with such a schedule of payments. It would make it virtually impossible for those many parolees who will be unable to make such payments and also provide food and rent to transition back into the community, will only guarantee that California will not lose its graceful national first place in recidivism. **(RE 9 & 21)**

It has come to our attention that this new rule will apply to parolees with no provisions for adjustment according to circumstances. How will a parolee, who is trying hard to make it at a minimum-wage job, be able to do so when 55% is deducted from his or her paycheck? This is an appalling idea and might be considered to be cruel and unusual treatment. We implore you to establish a process that will allow parolees to schedule restitution owed according to their means. **(RE 10)**

**ACCOMMODATION: None**

**REASON:** Penal Code Section 2085.5 gives the Department authority to collect restitution from parolees. However, the Department has no mechanism to deduct restitution from wages earned while on parole.

**ISSUE #8: The following Commenter argues that the public should be given ten years to determine the impact of the restitution increase instead of one year.**

The change of Section 3097(a) of June 30, 2004 should be changed to June 30, 2012. The change of Section 3097(b) of July 1, 2004 should be changed to July 1, 2012. The revised Section 3097(b) renumbered to (c) should change June 30, 2003 to June 30, 2012 and the new subsection 3097(d), July 1, 2004 should be changed to July 1, 2012. Commenters should be allowed to comment on the year and not just the month. It seems ridiculous for a window of 33% to be approximately 15 months long when the 22% has been over a decade. There should be a decade (ten years) at 33% so as to compare with restitution collected at 22% for the last decade. **(RE 16)**

**ACCOMMODATION: None**

**REASON:** At the current deduction rate of 20%, only 15% of inmate's parole with their restitution fully paid. The Department always had the authority to deduct restitution at the higher percentage. In the early stages when restitution was first being deducted, the Department implemented the minimum 20% to use as a benchmark. Sufficient time has elapsed to contend that 20% is not meeting the needs of the victims in California. Increasing the percentages will enable more inmates to parole with their restitution paid.

**ISSUE #9: The following Commenters were summarily dismissed because they were made in the form of a general statement, unsubstantiated assertion or opinion and no reasonable accommodation on the part of the Department is possible. The following comments were received but are not relevant to the proposed regulation change.**

Prisons should not be used to warehouse criminals. They should work if in prison. Offenses less than major (non-violent first offenders) should be caned on the bottom of their feet or buttocks. And not incarcerated. This is not cruel. It is direct punishment and stops the warehousing of humans and the insane cost of prisons. **(RE 1)**

No American state prison should be subject to foreign courts or foreign control. No prisoner or parolee or probationer likewise should be under any foreign control. No prisoner or prison employee should be under any foreign control. Illegal aliens should be deported or serve the criminal sentences as other prisoners do. Debtor's court was outlawed in 1776. No reason to institute it again with proper prison management and proper parole follow-up (no exceptions or repayment). **(RE 1)**

It is quite apparent that your mind is already made up. This is just a formality that you have to go through. I thought I would at least give a truthful response to

these changes. I did write a letter before trying to express my opinion about this change but this letter will express even deeper feelings regarding this. I have been a Chaplain for over 25 years and have ministered to thousands of inmates who have eventually gone to prison. I can't give much to inmates monetarily. I try and send a few stamps then I write. There are times though when an inmate has no family or close friends to try and help them. Obviously with the budget, many things inmates need will not be provided. They need help monetarily and every once in a while someone gives me some money to help those I have ministered to. It is absolutely terrible that money that is sent in to an inmate from family or friends or churches or whoever will be charged and not totally given to the inmate. I can understand the money they make being charged to pay restitution. I believe that restitution needs to be paid and that there has to be some means of that getting accomplished but it shouldn't come from people like me or others who are just trying to do their best to minister to an inmate. I realize no one cares. I realize this letter won't amount to anything in the big scheme of things. I do realize that at least my conscience will be clear that I took a stand against something that is wrong. I also realize that I at least will make a statement about those who unjustly, unfairly and wrongly make policy that affects so many in such a terrible way. Regardless of one's beliefs, there will be a greater judgment and the way we treated people on this earth will be judged very justly. I can hear someone saying, "what about what these inmates did?" Trust me, they will be judged accordingly by the same one who will judge you and everyone else who has made this decision. There are lots more to say but its rather senseless to waste paper and time to deaf ears. **(RE 2)**

Let me be clear on this, every inmate in this prison will do everything to manipulate the system to keep from paying this increase in restitution. Personally you will get less money out of me in the long and short run. I'm a lifer and didn't have a problem paying 22%, but this increase is unacceptable to me. I don't have a pay #, never had one. My dad is retired and mom only works part time, so what money I do have coming in for things like medics is short to begin with. I urge you and your staff to rethink your wasted plan because its effect will be exactly the opposite of what you desire. I know you guys think that making me pay restitution as one of the terms for release on parole can get me, but parole is not given to lifers. **(RE 3)**

Also for the lifers and long termers who will be here long enough to pay off their restitution with 22% cut, why does it have to go so high? The taxpayers in the long run will be spending more because the prison will need more indigent care packages because more women will wind up being indigent. The 8 cents an hour is not much and that's not even a full 40-hour week. Now you want 33% out? **(RE 4)**

I think the Regulation Department of Correctional Management may have attended a Taliban school. What's next these people have already been kicked to the curb. The money that is sent to them should be used for them and the

restitution should be imposed on their own wages earned. The percentage is out of this world. Why can't the Correction department be a little more humane about things they impose and try to lift up and not down. We can Jesse James ourselves in other countries telling them how to live and what to do and it should start at home first. Thank you for the chance to express my opinion. **(RE 12)**

Certainly, inmates are imprisoned for good reason – but they are still humans of work as are their families at home. All of the reasons to deny this action have been stated quite prolifically by others. Please pay attention to those words and consider the consequences of your actions. **(RE 20)**

I'm writing to protest the proposed changes to inmate restitution. I am a taxpaying citizen who takes responsibility for all of my moral and legal obligations. I have a sister incarcerated in the California Prison system. As an adult, she should also take responsibility for her moral and legal obligations. Therefore she should pay her own restitution.

Every three months our family is obligated to send basic hygiene supplies or the money to buy them to my sister in prison. My parents, who live on a fixed income, require my assistance to provide these supplies for my sister. And now you propose to increase the amount of money we must spend on an adult who is healthy enough to earn her own pay. Jobs in the prison system should pay enough to allow prisoners to purchase the basic necessities or these should be provided to them. I believe capable adults should be required to work. **(RE 23)**

**ACCOMMODATION: None**

**REASON:** Although the above comments/objections do regard an aspect or aspects of the subject proposed regulatory action or actions and must be summarized pursuant to GC Section 11346.9(b)(3), the comment/objection is either insufficiently related to the specific action or actions proposed, generalized, or personalized to the extent that no meaningful response can be formulated by the Department in refutation of or accommodation to the comment.